

1 settlements. Participating hospitals shall report to the
2 committee their total costs for healing art malpractice
3 verdicts, settlements, and defense litigation for the
4 preceding 5 years to enable the committee to determine average
5 costs for that hospital during that period. The committee shall
6 develop standards and protocols to compare costs for cases
7 handled by traditional means and cases handled under the Sorry
8 Works! protocol.

9 If the committee determines that the total costs of cases
10 handled under the Sorry Works! protocol by a hospital
11 participating in the program exceed the total costs that would
12 have been incurred if the cases had been handled by traditional
13 means, the hospital may apply for a grant from the Sorry Works!
14 Fund, a special fund that is created in the State Treasury, for
15 an amount, as determined by the committee, by which the total
16 costs exceed the total costs that would have been incurred if
17 the cases had been handled by traditional means; however, the
18 total of all grants from the Fund for cases in any single
19 participating hospital in any year may not exceed the amount in
20 the Fund or \$2,000,000, whichever is less. All grants shall be
21 subject to appropriation. Moneys in the Fund shall consist of
22 funds transferred into the Fund or otherwise made available
23 from any source.

24 Section 110. Establishment of committee.

25 (a) A committee is established to develop, oversee, and
26 implement the Sorry Works! pilot program. The committee shall
27 have 12 members, each of whom shall be a voting member. Seven
28 members of the committee shall constitute a quorum. The
29 committee shall be comprised as follows:

30 (1) One representative of the Illinois Department of
31 Insurance;

32 (2) One representative of the Illinois Department of
33 Professional Regulation;

1 (3) Two representatives of the Illinois State Medical
2 Society;

3 (4) Two representatives of the Illinois Trial Lawyers
4 Association;

5 (5) Two representatives of the Illinois Hospital
6 Association;

7 (6) Two representatives of the Illinois State Bar
8 Association; and

9 (7) Two actuarial experts chosen by the Director of
10 Insurance.

11 (b) The committee shall establish criteria for the program,
12 including but not limited to: selection of hospitals,
13 physicians, and insurers to participate in the program; and
14 creation of a subcommittee to review cases from hospitals and
15 determine whether hospitals, physicians, and insurers are
16 entitled to compensation under the program.

17 (c) The committee shall communicate with hospitals,
18 physicians, and insurers that are interested in participating
19 in the program. The committee shall make final decisions as to
20 which applicants are accepted for the program.

21 (d) The committee shall report to the Governor and the
22 General Assembly annually.

23 (e) The committee shall publish data regarding the program.

24 (f) Committee members shall receive no compensation for the
25 performance of their duties as members, but each member shall
26 be paid necessary expenses while engaged in the performance of
27 those duties.

28 Section 115. Termination of program.

29 (a) The program may be terminated at any time if the
30 committee, by a vote of two-thirds of its members, votes to
31 terminate the program.

32 (b) If the program is not terminated under subsection (a),
33 the program shall terminate after its second year of operation.

1 Section 195. The State Finance Act is amended by adding
2 Section 5.626 as follows:

3 (30 ILCS 105/5.626 new)

4 Sec. 5.626. The Sorry Works! Fund.

5 ARTICLE 2. RISK RETENTION ARRANGEMENTS

6 Section 201. Findings and purpose.

7 (a) In order to provide an alternative to the private
8 insurance market to cover medical malpractice risks, it is the
9 finding of the General Assembly that counties in the State may
10 find it necessary to seek to protect the public health, safety,
11 and welfare by providing an alternative source of insurance or
12 self-insurance for physicians practicing medicine and their
13 personnel within that county, and that providing such an
14 alternative source is in the public interest and serves a
15 public purpose.

16 (b) A program to provide a stable and ongoing source of
17 professional liability coverage for physicians and their
18 personnel through an insurance or self-insurance trust, under
19 the direction and control of a county or counties, will operate
20 for the protection of the public health, safety, and welfare
21 and serve a paramount public interest and purpose of the county
22 or counties.

23 Section 205. The Open Meetings Act is amended by changing
24 Section 2 as follows:

25 (5 ILCS 120/2) (from Ch. 102, par. 42)

26 Sec. 2. Open meetings.

27 (a) Openness required. All meetings of public bodies shall
28 be open to the public unless excepted in subsection (c) and

1 closed in accordance with Section 2a.

2 (b) Construction of exceptions. The exceptions contained
3 in subsection (c) are in derogation of the requirement that
4 public bodies meet in the open, and therefore, the exceptions
5 are to be strictly construed, extending only to subjects
6 clearly within their scope. The exceptions authorize but do not
7 require the holding of a closed meeting to discuss a subject
8 included within an enumerated exception.

9 (c) Exceptions. A public body may hold closed meetings to
10 consider the following subjects:

11 (1) The appointment, employment, compensation,
12 discipline, performance, or dismissal of specific
13 employees of the public body or legal counsel for the
14 public body, including hearing testimony on a complaint
15 lodged against an employee of the public body or against
16 legal counsel for the public body to determine its
17 validity.

18 (2) Collective negotiating matters between the public
19 body and its employees or their representatives, or
20 deliberations concerning salary schedules for one or more
21 classes of employees.

22 (3) The selection of a person to fill a public office,
23 as defined in this Act, including a vacancy in a public
24 office, when the public body is given power to appoint
25 under law or ordinance, or the discipline, performance or
26 removal of the occupant of a public office, when the public
27 body is given power to remove the occupant under law or
28 ordinance.

29 (4) Evidence or testimony presented in open hearing, or
30 in closed hearing where specifically authorized by law, to
31 a quasi-adjudicative body, as defined in this Act, provided
32 that the body prepares and makes available for public
33 inspection a written decision setting forth its
34 determinative reasoning.

1 (5) The purchase or lease of real property for the use
2 of the public body, including meetings held for the purpose
3 of discussing whether a particular parcel should be
4 acquired.

5 (6) The setting of a price for sale or lease of
6 property owned by the public body.

7 (7) The sale or purchase of securities, investments, or
8 investment contracts.

9 (8) Security procedures and the use of personnel and
10 equipment to respond to an actual, a threatened, or a
11 reasonably potential danger to the safety of employees,
12 students, staff, the public, or public property.

13 (9) Student disciplinary cases.

14 (10) The placement of individual students in special
15 education programs and other matters relating to
16 individual students.

17 (11) Litigation, when an action against, affecting or
18 on behalf of the particular public body has been filed and
19 is pending before a court or administrative tribunal, or
20 when the public body finds that an action is probable or
21 imminent, in which case the basis for the finding shall be
22 recorded and entered into the minutes of the closed
23 meeting.

24 (12) The establishment of reserves or settlement of
25 claims as provided in the Local Governmental and
26 Governmental Employees Tort Immunity Act, if otherwise the
27 disposition of a claim or potential claim might be
28 prejudiced, or the review or discussion of claims, loss or
29 risk management information, records, data, advice or
30 communications from or with respect to any insurer of the
31 public body or any intergovernmental risk management
32 association or self insurance pool of which the public body
33 is a member.

34 (13) Conciliation of complaints of discrimination in

1 the sale or rental of housing, when closed meetings are
2 authorized by the law or ordinance prescribing fair housing
3 practices and creating a commission or administrative
4 agency for their enforcement.

5 (14) Informant sources, the hiring or assignment of
6 undercover personnel or equipment, or ongoing, prior or
7 future criminal investigations, when discussed by a public
8 body with criminal investigatory responsibilities.

9 (15) Professional ethics or performance when
10 considered by an advisory body appointed to advise a
11 licensing or regulatory agency on matters germane to the
12 advisory body's field of competence.

13 (16) Self evaluation, practices and procedures or
14 professional ethics, when meeting with a representative of
15 a statewide association of which the public body is a
16 member.

17 (17) The recruitment, credentialing, discipline or
18 formal peer review of physicians or other health care
19 professionals for a hospital, or other institution
20 providing medical care, that is operated by the public
21 body.

22 (18) Deliberations for decisions of the Prisoner
23 Review Board.

24 (19) Review or discussion of applications received
25 under the Experimental Organ Transplantation Procedures
26 Act.

27 (20) The classification and discussion of matters
28 classified as confidential or continued confidential by
29 the State Employees Suggestion Award Board.

30 (21) Discussion of minutes of meetings lawfully closed
31 under this Act, whether for purposes of approval by the
32 body of the minutes or semi-annual review of the minutes as
33 mandated by Section 2.06.

34 (22) Deliberations for decisions of the State

1 Emergency Medical Services Disciplinary Review Board.

2 (23) The operation by a municipality of a municipal
3 utility or the operation of a municipal power agency or
4 municipal natural gas agency when the discussion involves
5 (i) contracts relating to the purchase, sale, or delivery
6 of electricity or natural gas or (ii) the results or
7 conclusions of load forecast studies.

8 (24) Meetings of a residential health care facility
9 resident sexual assault and death review team or the
10 Residential Health Care Facility Resident Sexual Assault
11 and Death Review Teams Executive Council under the
12 Residential Health Care Facility Resident Sexual Assault
13 and Death Review Team Act.

14 (25) The establishment of reserves administration,
15 adjudication, or settlement of claims as provided in
16 Article XLV of the Illinois Insurance Code if otherwise the
17 disposition of a claim or potential claim might be
18 prejudiced, or the review or discussion of claims, loss or
19 risk management information, records, data, advice or
20 communications from or with respect to any self-insurance
21 trust administration or adjudication of any claim, or
22 insurer created by the public body.

23 (d) Definitions. For purposes of this Section:

24 "Employee" means a person employed by a public body whose
25 relationship with the public body constitutes an
26 employer-employee relationship under the usual common law
27 rules, and who is not an independent contractor.

28 "Public office" means a position created by or under the
29 Constitution or laws of this State, the occupant of which is
30 charged with the exercise of some portion of the sovereign
31 power of this State. The term "public office" shall include
32 members of the public body, but it shall not include
33 organizational positions filled by members thereof, whether
34 established by law or by a public body itself, that exist to

1 assist the body in the conduct of its business.

2 "Quasi-adjudicative body" means an administrative body
3 charged by law or ordinance with the responsibility to conduct
4 hearings, receive evidence or testimony and make
5 determinations based thereon, but does not include local
6 electoral boards when such bodies are considering petition
7 challenges.

8 (e) Final action. No final action may be taken at a closed
9 meeting. Final action shall be preceded by a public recital of
10 the nature of the matter being considered and other information
11 that will inform the public of the business being conducted.

12 (Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422,
13 eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03)

14 Section 210. The Counties Code is amended by changing
15 Section 5-1005 and by adding Division 6-34 as follows:

16 (55 ILCS 5/5-1005) (from Ch. 34, par. 5-1005)

17 Sec. 5-1005. Powers. Each county shall have power:

18 1. To purchase and hold the real and personal estate
19 necessary for the uses of the county, and to purchase and hold,
20 for the benefit of the county, real estate sold by virtue of
21 judicial proceedings in which the county is plaintiff.

22 2. To sell and convey or lease any real or personal estate
23 owned by the county.

24 3. To make all contracts and do all other acts in relation
25 to the property and concerns of the county necessary to the
26 exercise of its corporate powers.

27 4. To take all necessary measures and institute proceedings
28 to enforce all laws for the prevention of cruelty to animals.

29 5. To purchase and hold or lease real estate upon which may
30 be erected and maintained buildings to be utilized for purposes
31 of agricultural experiments and to purchase, hold and use
32 personal property for the care and maintenance of such real

1 estate in connection with such experimental purposes.

2 6. To cause to be erected, or otherwise provided, suitable
3 buildings for, and maintain a county hospital and necessary
4 branch hospitals and/or a county sheltered care home or county
5 nursing home for the care of such sick, chronically ill or
6 infirm persons as may by law be proper charges upon the county,
7 or upon other governmental units, and to provide for the
8 management of the same. The county board may establish rates to
9 be paid by persons seeking care and treatment in such hospital
10 or home in accordance with their financial ability to meet such
11 charges, either personally or through a hospital plan or
12 hospital insurance, and the rates to be paid by governmental
13 units, including the State, for the care of sick, chronically
14 ill or infirm persons admitted therein upon the request of such
15 governmental units. Any hospital maintained by a county under
16 this Section is authorized to provide any service and enter
17 into any contract or other arrangement not prohibited for a
18 hospital that is licensed under the Hospital Licensing Act,
19 incorporated under the General Not-For-Profit Corporation Act,
20 and exempt from taxation under paragraph (3) of subsection (c)
21 of Section 501 of the Internal Revenue Code.

22 7. To contribute such sums of money toward erecting,
23 building, maintaining, and supporting any non-sectarian public
24 hospital located within its limits as the county board of the
25 county shall deem proper.

26 8. To purchase and hold real estate for the preservation of
27 forests, prairies and other natural areas and to maintain and
28 regulate the use thereof.

29 9. To purchase and hold real estate for the purpose of
30 preserving historical spots in the county, to restore, maintain
31 and regulate the use thereof and to donate any historical spot
32 to the State.

33 10. To appropriate funds from the county treasury to be
34 used in any manner to be determined by the board for the

1 suppression, eradication and control of tuberculosis among
2 domestic cattle in such county.

3 11. To take all necessary measures to prevent forest fires
4 and encourage the maintenance and planting of trees and the
5 preservation of forests.

6 12. To authorize the closing on Saturday mornings of all
7 offices of all county officers at the county seat of each
8 county, and to otherwise regulate and fix the days and the
9 hours of opening and closing of such offices, except when the
10 days and the hours of opening and closing of the office of any
11 county officer are otherwise fixed by law; but the power herein
12 conferred shall not apply to the office of State's Attorney and
13 the offices of judges and clerks of courts and, in counties of
14 500,000 or more population, the offices of county clerk.

15 13. To provide for the conservation, preservation and
16 propagation of insectivorous birds through the expenditure of
17 funds provided for such purpose.

18 14. To appropriate funds from the county treasury and
19 expend the same for care and treatment of tuberculosis
20 residents.

21 15. In counties having less than 1,000,000 inhabitants, to
22 take all necessary or proper steps for the extermination of
23 mosquitoes, flies or other insects within the county.

24 16. To install an adequate system of accounts and financial
25 records in the offices and divisions of the county, suitable to
26 the needs of the office and in accordance with generally
27 accepted principles of accounting for governmental bodies,
28 which system may include such reports as the county board may
29 determine.

30 17. To purchase and hold real estate for the construction
31 and maintenance of motor vehicle parking facilities for persons
32 using county buildings, but the purchase and use of such real
33 estate shall not be for revenue producing purposes.

34 18. To acquire and hold title to real property located

1 within the county, or partly within and partly outside the
2 county by dedication, purchase, gift, legacy or lease, for park
3 and recreational purposes and to charge reasonable fees for the
4 use of or admission to any such park or recreational area and
5 to provide police protection for such park or recreational
6 area. Personnel employed to provide such police protection
7 shall be conservators of the peace within such park or
8 recreational area and shall have power to make arrests on view
9 of the offense or upon warrants for violation of any of the
10 ordinances governing such park or recreational area or for any
11 breach of the peace in the same manner as the police in
12 municipalities organized and existing under the general laws of
13 the State. All such real property outside the county shall be
14 contiguous to the county and within the boundaries of the State
15 of Illinois.

16 19. To appropriate funds from the county treasury to be
17 used to provide supportive social services designed to prevent
18 the unnecessary institutionalization of elderly residents, or,
19 for operation of, and equipment for, senior citizen centers
20 providing social services to elderly residents.

21 20. To appropriate funds from the county treasury and loan
22 such funds to a county water commission created under the
23 "Water Commission Act", approved June 30, 1984, as now or
24 hereafter amended, in such amounts and upon such terms as the
25 county may determine or the county and the commission may
26 agree. The county shall not under any circumstances be
27 obligated to make such loans. The county shall not be required
28 to charge interest on any such loans.

29 21. To establish an independent entity to administer a
30 medical care risk retention trust program, to contribute such
31 sums of money to the risk retention trust program as the county
32 board of the county shall deem proper to operate the medical
33 care risk retention trust program, to establish uniform
34 eligibility requirements for participation in the risk

1 retention trust program, to appoint an administrator of the
2 risk retention trust program, to charge premiums, to establish
3 a billing procedure to collect premiums, and to ensure timely
4 administration and adjudication of claims under the program. A
5 single medical care risk retention trust program may be
6 established jointly by more than one county, in accordance with
7 an agreement between the participating counties, if at least
8 one of the participating counties has a population of 200,000
9 or more according to the most recent federal decennial census.

10 All contracts for the purchase of coal under this Section
11 shall be subject to the provisions of "An Act concerning the
12 use of Illinois mined coal in certain plants and institutions",
13 filed July 13, 1937, as amended.

14 (Source: P.A. 86-962; 86-1028.)

15 (55 ILCS 5/Div. 6-34 heading new)

16 Division 6-34. Funding for health care financing programs

17 (55 ILCS 5/6-34001 new)

18 Sec. 6-34001. Authorization. The county board of any county
19 with a population of 200,000 or more according to the most
20 recent federal decennial census (and a county with a population
21 of less than 200,000 according to the most recent federal
22 decennial census if that county is participating in a single
23 trust program with one or more other counties in accordance
24 with the requirements of paragraph (21) of Section 5-1005 of
25 this Code) may, upon finding such action necessary for
26 protection of the public health, safety, and welfare, incur an
27 indebtedness by the establishment of lines or letters of credit
28 or issue general obligation or revenue bonds for the purpose of
29 ensuring the availability of and improving hospital, medical,
30 and health services as authorized under paragraph (21) of
31 Section 5-1005 of this Code.

1 (55 ILCS 5/6-34002 new)

2 Sec. 6-34002. Bonds. The bonds authorized in Section
3 6-34001 shall be issued in such denominations, be for such term
4 or terms, and bear interest at such rate as may be specified in
5 the resolution of the county board authorizing the issuance of
6 those bonds.

7 Section 215. The Illinois Insurance Code is amended by
8 adding Article XLV as follows:

9 (215 ILCS 5/Art. XLV heading new)

10 Article XLV. COUNTY RISK RETENTION ARRANGEMENTS
11 FOR THE PROVISION OF MEDICAL MALPRACTICE INSURANCE

12 (215 ILCS 5/1501 new)

13 Sec. 1501. Scope of Article. This Article applies only to
14 trusts sponsored by counties and organized under this Article
15 to provide medical malpractice insurance authorized under
16 paragraph (21) of Section 5-1005 of the Counties Code for
17 physicians and health care professionals providing medical
18 care and health care within the county's limits. In the case of
19 a single trust sponsored and organized by more than one county
20 in accordance with the requirements of paragraph (21) of
21 Section 5-1005 of the Counties Code, the powers and duties of a
22 county under this Article shall be exercised jointly by the
23 counties participating in the trust program in accordance with
24 the agreement between the counties.

25 (215 ILCS 5/1502 new)

26 Sec. 1502. Definitions. As used in this Article:

27 "Risk retention trust" or "trust" means a risk retention
28 trust created under this Article.

29 "Trust sponsor" means a county that has created a risk
30 retention trust.

1 "Pool retention fund" means a separate fund maintained for
2 payment of first dollar claims, up to a specified amount per
3 claim ("specific retention") and up to an aggregate amount for
4 a 12-month period ("aggregate retention").

5 "Contingency reserve fund" means a separate fund
6 maintained for payment of claims in excess of the pool
7 retention fund amount.

8 "Coverage grant" means the document describing specific
9 coverages and terms of coverage that are provided by a risk
10 retention trust created under this Article.

11 "Licensed service company" means an entity licensed by the
12 Department to perform claims adjusting, loss control, and data
13 processing.

14 (215 ILCS 5/1503 new)

15 Sec. 1503. Name. The corporate name of any risk retention
16 trust shall not be the same as or deceptively similar to the
17 name of any domestic insurance company or of any foreign or
18 alien insurance company authorized to transact business in this
19 State.

20 (215 ILCS 5/1504 new)

21 Sec. 1504. Principal office place of business. The
22 principal office of any risk retention trust shall be located
23 in this State.

24 (215 ILCS 5/1505 new)

25 Sec. 1505. Creation.
26 (1) Any county with a population of 200,000 or more
27 according to the most recent federal decennial census may
28 create a risk retention trust for the pooling of risks to
29 provide professional liability coverage authorized under
30 paragraph (21) of Section 5-1005 of the Counties Code for its
31 physicians and health care professionals providing medical

1 care and related health care within the county's limits. A
2 single risk retention trust may also be created jointly by more
3 than one county in accordance with the requirements of
4 paragraph (21) of Section 5-1005 of the Counties Code. A trust
5 shall be administered by at least 3 trustees who may be
6 individuals or corporate trustees and are appointed by the
7 trust sponsor and who represent physicians who have agreed in
8 writing to participate in the trust.

9 (2) The trustees shall appoint a qualified licensed
10 administrator who shall administer the affairs of the risk
11 retention trust.

12 (3) The trustees shall retain a licensed service company to
13 perform claims adjusting, loss control, and data processing and
14 any other delegated administrative duties.

15 (4) The trust sponsor, the trustees, and the trust
16 administrator shall be fiduciaries of the trust.

17 (5) A trust shall be consummated by a written trust
18 agreement and shall be subject to the laws of this State
19 governing the creation and operation of trusts, to the extent
20 not inconsistent with this Article.

21 (215 ILCS 5/1506 new)

22 Sec. 1506. Participation.

23 (1) A physician or health care professional providing
24 medical care and related health care within the county's limits
25 may participate in a risk retention trust if the physician or
26 health care professional:

27 (a) meets the underwriting standards for acceptance
28 into the trust;

29 (b) files a written application for coverage, agreeing
30 to meet all of the membership conditions of the trust;

31 (c) provides medical care and related health care in
32 the county sponsoring the trust;

33 (d) agrees to meet the ongoing loss control provisions

1 and risk pooling arrangements set forth by the trust;

2 (e) pays premium contributions on a timely basis as
3 required; and

4 (f) pays predetermined annual required contributions
5 into the contingency reserve fund.

6 (2) A physician or health care professional accepted for
7 trust membership and participating in the trust is liable for
8 payment to the trust of the amount of his or her annual premium
9 contribution and his or her annual predetermined contingency
10 reserve fund contribution.

11 (215 ILCS 5/1507 new)

12 Sec. 1507. Coverage grants; payment of claims.

13 (1) A risk retention trust may not issue coverage grants
14 until it has established a contingency reserve fund in an
15 amount deemed appropriate by the trust and filed with the
16 Department of Insurance. A risk retention trust must have and
17 at all times maintain a pool retention fund or a line or letter
18 of credit at least equal to its unpaid liabilities as
19 determined by an independent actuary.

20 (2) Every coverage grant issued or delivered in this State
21 by a risk retention trust shall provide for the extent of the
22 liability of trust members to the extent that funds are needed
23 to pay a member's share of the depleted contingency reserve
24 fund needed to maintain the reserves required by this Section.

25 (3) All claims shall be paid first from the pool retention
26 fund. If that fund becomes depleted, any additional claims
27 shall be paid from the contingency reserve fund.

28 (215 ILCS 5/1508 new)

29 Sec. 1508. Applicable Illinois Insurance Code provisions.
30 Other than this Article, only Sections 155.19, 155.20, and
31 155.25 and subsections (a) through (c) of Section 155.18 of
32 this Code shall apply to county risk retention trusts. The

1 Director shall advise the county board of any determinations
2 made pursuant to subsection (b) of Section 155.18 of this Code.

3 (215 ILCS 5/1509 new)

4 Sec. 1509. Authorized investments. In addition to other
5 investments authorized by law, a risk retention trust with
6 assets of at least \$5,000,000 may invest in any combination of
7 the following:

8 (1) the common stocks listed on a recognized exchange
9 or market;

10 (2) stock and convertible debt investments, or
11 investment grade corporate bonds, in or issued by any
12 corporation, the book value of which may not exceed 5% of
13 the total intergovernmental risk management entity's
14 investment account at book value in which those securities
15 are held, determined as of the date of the investment,
16 provided that investments in the stock of any one
17 corporation may not exceed 5% of the total outstanding
18 stock of the corporation and that the investments in the
19 convertible debt of any one corporation may not exceed 5%
20 of the total amount of such debt that may be outstanding;

21 (3) the straight preferred stocks or convertible
22 preferred stocks and convertible debt securities issued or
23 guaranteed by a corporation whose common stock is listed on
24 a recognized exchange or market;

25 (4) mutual funds or commingled funds that meet the
26 following requirements:

27 (A) the mutual fund or commingled fund is managed
28 by an investment company as defined in and registered
29 under the federal Investment Company Act of 1940 and
30 registered under the Illinois Securities Law of 1953 or
31 an investment adviser as defined under the federal
32 Investment Advisers Act of 1940;

33 (B) the mutual fund has been in operation for at

1 least 5 years; and

2 (C) the mutual fund has total net assets of
3 \$150,000,000 or more;

4 (5) commercial grade real estate located in the State
5 of Illinois.

6 Any investment adviser retained by a trust must be a
7 fiduciary who has the power to manage, acquire, or dispose of
8 any asset of the trust and has acknowledged in writing that he
9 or she is a fiduciary with respect to the trust and that he or
10 she will adhere to all of the guidelines of the trust and is
11 one or more of the following:

12 (i) registered as an investment adviser under the
13 federal Investment Advisers Act of 1940;

14 (ii) registered as an investment adviser under the
15 Illinois Securities Law of 1953;

16 (iii) a bank as defined in the federal Investment
17 Advisers Act of 1940;

18 (iv) an insurance company authorized to transact
19 business in this State.

20 Nothing in this Section shall be construed to authorize a
21 risk retention trust to accept the deposit of public funds
22 except for trust risk retention purposes.

23 Section 220. The Local Governmental and Governmental
24 Employees Tort Immunity Act is amended by adding Section 6-111
25 as follows:

26 (745 ILCS 10/6-111 new)

27 Sec. 6-111. Medical care risk management program. Neither a
28 local public entity nor a public employee is liable for an
29 injury resulting from the policy decision to establish a
30 medical care risk retention trust or from the operation,
31 management, or administration of, or payment of claims pursuant
32 to, a medical care risk retention trust under paragraph (21) of

1 Section 5-1005 of the Counties Code, unless the local public
2 entity or public employee is guilty of willful and wanton
3 conduct.

4 ARTICLE 3. AMENDATORY PROVISIONS

5 Section 305. The Hospital Licensing Act is amended by
6 adding Section 6.22 as follows:

7 (210 ILCS 85/6.22 new)

8 Sec. 6.22. Discussion of information that raises immediate
9 patient safety concerns. Subject to the limitations of Section
10 6.17 of this Act, any hospital through its employees or agents
11 may discuss information regarding a member of its medical staff
12 that raises immediate patient safety concerns with any other
13 hospital or group of hospitals for the same purposes. Nothing
14 in this Section prevents a medical staff member from obtaining
15 any information used to decide upon the staff member's staff
16 privileges or in any judicial review of such a decision. No
17 hospital or individual shall be liable for civil damages for
18 providing, sharing, collecting, obtaining, developing, or
19 using the information covered under this Section in the absence
20 of willful or wanton misconduct. For purposes of this Section,
21 "willful and wanton misconduct" means a course of action that
22 shows actual or deliberate intention to harm or that, if not
23 intentional, shows an utter indifference to or conscious
24 disregard for a person's own safety and the safety of others.

25 Section 310. The Illinois Insurance Code is amended by
26 changing Sections 155.18, 155.19, and 1204 and by adding
27 Section 155.18a as follows:

28 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

29 Sec. 155.18. (a) This Section shall apply to insurance on

1 risks based upon negligence by a physician, hospital or other
2 health care provider, referred to herein as medical liability
3 insurance. This Section shall not apply to contracts of
4 reinsurance, nor to any farm, county, district or township
5 mutual insurance company transacting business under an Act
6 entitled "An Act relating to local mutual district, county and
7 township insurance companies", approved March 13, 1936, as now
8 or hereafter amended, nor to any such company operating under a
9 special charter.

10 (b) The following standards shall apply to the making and
11 use of rates pertaining to all classes of medical liability
12 insurance:

13 (1) Rates shall not be excessive or inadequate, as
14 herein defined, nor shall they be unfairly discriminatory.
15 No rate shall be held to be excessive unless such rate is
16 unreasonably high for the insurance provided, ~~and a~~
17 ~~reasonable degree of competition does not exist in the area~~
18 ~~with respect to the classification to which such rate is~~
19 ~~applicable.~~

20 No rate shall be held inadequate unless it is
21 unreasonably low for the insurance provided ~~and continued~~
22 ~~use of it would endanger solvency of the company.~~

23 (2) Consideration shall be given, to the extent
24 applicable, to past and prospective loss experience within
25 and outside this State, to a reasonable margin for
26 underwriting profit and contingencies, to past and
27 prospective expenses both countrywide and those especially
28 applicable to this State, and to all other factors,
29 including judgment factors, deemed relevant within and
30 outside this State.

31 Consideration may also be given in the making and use
32 of rates to dividends, savings or unabsorbed premium
33 deposits allowed or returned by companies to their
34 policyholders, members or subscribers.

1 (3) The systems of expense provisions included in the
2 rates for use by any company or group of companies may
3 differ from those of other companies or groups of companies
4 to reflect the operating methods of any such company or
5 group with respect to any kind of insurance, or with
6 respect to any subdivision or combination thereof.

7 (4) Risks may be grouped by classifications for the
8 establishment of rates and minimum premiums.
9 Classification rates may be modified to produce rates for
10 individual risks in accordance with rating plans which
11 establish standards for measuring variations in hazards or
12 expense provisions, or both. Such standards may measure any
13 difference among risks that have a probable effect upon
14 losses or expenses. Such classifications or modifications
15 of classifications of risks may be established based upon
16 size, expense, management, individual experience, location
17 or dispersion of hazard, or any other reasonable
18 considerations and shall apply to all risks under the same
19 or substantially the same circumstances or conditions. The
20 rate for an established classification should be related
21 generally to the anticipated loss and expense factors of
22 the class.

23 (c) Every company writing medical liability insurance
24 shall file with the Director of Insurance the rates and rating
25 schedules it uses for medical liability insurance.

26 (1) This filing shall occur upon a company's
27 commencement of medical liability insurance business in
28 this State ~~at least annually~~ and thereafter as often as the
29 rates are changed or amended.

30 (2) For the purposes of this Section, any change in
31 premium to the company's insureds as a result of a change
32 in the company's base rates or a change in its increased
33 limits factors shall constitute a change in rates and shall
34 require a filing with the Director. On any filing made

1 pursuant to this Section wherein the company's annual
2 cumulative overall rate increase exceeds 10%, the Director
3 shall convene a public hearing for the purpose of receiving
4 testimony from the company and from any interested persons
5 regarding the company's proposed increase.

6 (3) It shall be certified in such filing by an officer
7 of the company and a qualified actuary that the company's
8 rates, including any risk management plan discount
9 required by subdivision (g) (2) of this Section along with
10 any other discounts that may be provided by the insurer,
11 are based on sound actuarial principles and are not
12 inconsistent with the company's experience. The Director
13 may request any additional statistical data and other
14 pertinent information necessary to determine the manner
15 the company used to set the filed rates and the
16 reasonableness of those rates.

17 (d) If, after an administrative a hearing pursuant to
18 subsection (c) of Section 401 of this Code, the Director finds:

19 (1) that any rate, rating plan or rating system
20 violates the provisions of this Section applicable to it,
21 he shall ~~may~~ issue an order to the company which has been
22 the subject of the hearing specifying in what respects such
23 violation exists and may prohibit ~~stating when, within a~~
24 ~~reasonable period of time,~~ the further use of such rate or
25 rating system by such company in contracts of insurance
26 ~~made thereafter shall be prohibited;~~

27 (2) that the violation of any of the provisions of this
28 Section ~~applicable to it~~ by any company which has been the
29 subject of the hearing was wilful or that any company has
30 repeatedly violated any provision of this Section, he may
31 take either or both of the following actions:

32 (A) Suspend ~~suspend~~ or revoke, in whole or in part,
33 the certificate of authority of such company with
34 respect to the class of insurance which has been the

1 subject of the hearing.

2 (B) Impose a penalty of up to \$1,000 against the
3 company for each violation. Each day during which a
4 violation occurs constitutes a separate violation.

5 (e) Every company writing medical liability insurance
6 shall offer deductibles to each of its medical liability
7 insureds in this State. This offer shall be included in the
8 initial offer or in the first policy renewal occurring after
9 the effective date of this amendatory Act of the 93rd General
10 Assembly.

11 (f) Medical liability insurance rate compression.
12 Notwithstanding any other provision of this Code, an insurer
13 may charge different rates for different medical specialties or
14 combinations of medical specialties; however, the base rate
15 paid by the highest-rated medical specialty or combination of
16 medical specialties shall be no greater than 800% of the base
17 rate paid by the lowest-rated medical specialty or combination
18 of medical specialties.

19 This subsection (f) is operative at the discretion of the
20 Director.

21 (g) Every company writing medical liability insurance in
22 this State shall offer to each of its medical liability
23 insureds the option to make premium payments in installments as
24 prescribed by and filed with the Director. This offer shall be
25 included in the initial offer or in the first policy renewal
26 occurring after the effective date of this amendatory Act of
27 the 93rd General Assembly.

28 (h) Medical liability insurance risk management plans.

29 (1) Each insurer shall develop and establish a risk
30 management plan. The plan shall provide for discounts, not
31 to exceed 25% of the medical liability premium, for
32 insureds who implement risk management techniques
33 specified by the insurer. This offer shall be included in
34 the initial offer or in the first policy renewal occurring

1 after the effective date of this amendatory Act of the 93rd
2 General Assembly.

3 (2) Prior to initial use and thereafter as often as the
4 risk management plan is changed or amended, each insurer
5 shall file with the Director its risk management plan,
6 including the schedule of discounts.

7 (Source: P.A. 79-1434.)

8 (215 ILCS 5/155.18a new)

9 Sec. 155.18a. Professional Liability Insurance Resource
10 Center. The Director of Insurance shall establish a
11 Professional Liability Insurance Resource Center on the World
12 Wide Web containing the names and telephone numbers of all
13 licensed companies providing medical liability insurance and
14 producers who sell medical liability insurance. Each company
15 and producer shall submit the information to the Department on
16 or before September 30 of each year in order to be listed on
17 the website. The Department is under no obligation to list a
18 company or producer on the website. Hyperlinks to company
19 websites shall be included, if available. The publication of
20 the information on the Department's website shall commence on
21 January 1, 2005. The Department shall update the information on
22 the Professional Liability Insurance Resource Center at least
23 annually.

24 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

25 Sec. 155.19. All claims filed after December 31, 1976 with
26 any insurer and all suits filed after December 31, 1976 in any
27 court in this State, alleging liability on the part of any
28 physician, hospital or other health care provider for medically
29 related injuries, shall be reported to the Director of
30 Insurance in such form and under such terms and conditions as
31 may be prescribed by the Director. Notwithstanding any other
32 provision of law to the contrary, any insurer, stop loss

1 insurer, captive insurer, risk retention group, religious or
2 charitable risk pooling trust, surplus line insurer, or other
3 entity authorized or permitted by law to provide medical
4 liability insurance in this State shall report to the Director,
5 in such form and under such terms and conditions as may be
6 prescribed by the Director, all claims filed after December 31,
7 2004 and all suits filed after December 31, 2004 in any court
8 in this State alleging liability on the part of any physician,
9 hospital, or health care provider for medically-related
10 injuries. Each clerk of the circuit court shall provide to the
11 Director such information as the Director may deem necessary to
12 verify the accuracy and completeness of reports made to the
13 Director under this Section. The Director shall maintain
14 complete and accurate records of all such claims and suits
15 including their nature, amount, disposition and other
16 information as he may deem useful or desirable in observing and
17 reporting on health care provider liability trends in this
18 State. The Director shall release to appropriate disciplinary
19 and licensing agencies any such data or information which may
20 assist such agencies in improving the quality of health care or
21 which may be useful to such agencies for the purpose of
22 professional discipline.

23 With due regard for appropriate maintenance of the
24 confidentiality thereof, the Director shall ~~may~~ release, on an
25 annual basis, ~~from time to time~~ to the Governor, the General
26 Assembly and the general public statistical reports based on
27 such data and information.

28 If the Director finds that any entity required to report
29 information under this Section has violated any provision of
30 this Section by filing late, incomplete, or inaccurate reports,
31 the Director may fine the entity up to \$1,000 for each offense.
32 Each day during which a violation occurs constitutes a separate
33 offense.

34 The Director may promulgate such rules and regulations as

1 may be necessary to carry out the provisions of this Section.

2 (Source: P.A. 79-1434.)

3 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

4 Sec. 1204. (A) The Director shall promulgate rules and
5 regulations which shall require each insurer licensed to write
6 property or casualty insurance in the State and each syndicate
7 doing business on the Illinois Insurance Exchange to record and
8 report its loss and expense experience and other data as may be
9 necessary to assess the relationship of insurance premiums and
10 related income as compared to insurance costs and expenses. The
11 Director may designate one or more rate service organizations
12 or advisory organizations to gather and compile such experience
13 and data. The Director shall require each insurer licensed to
14 write property or casualty insurance in this State and each
15 syndicate doing business on the Illinois Insurance Exchange to
16 submit a report, on a form furnished by the Director, showing
17 its direct writings in this State and companywide.

18 (B) Such report required by subsection (A) of this Section
19 may include, but not be limited to, the following specific
20 types of insurance written by such insurer:

21 (1) Political subdivision liability insurance reported
22 separately in the following categories:

23 (a) municipalities;

24 (b) school districts;

25 (c) other political subdivisions;

26 (2) Public official liability insurance;

27 (3) Dram shop liability insurance;

28 (4) Day care center liability insurance;

29 (5) Labor, fraternal or religious organizations
30 liability insurance;

31 (6) Errors and omissions liability insurance;

32 (7) Officers and directors liability insurance
33 reported separately as follows:

- 1 (a) non-profit entities;
- 2 (b) for-profit entities;
- 3 (8) Products liability insurance;
- 4 (9) Medical malpractice insurance;
- 5 (10) Attorney malpractice insurance;
- 6 (11) Architects and engineers malpractice insurance;
- 7 and
- 8 (12) Motor vehicle insurance reported separately for
- 9 commercial and private passenger vehicles as follows:
- 10 (a) motor vehicle physical damage insurance;
- 11 (b) motor vehicle liability insurance.
- 12 (C) Such report may include, but need not be limited to the
- 13 following data, both specific to this State and companywide, in
- 14 the aggregate or by type of insurance for the previous year on
- 15 a calendar year basis:
- 16 (1) Direct premiums written;
- 17 (2) Direct premiums earned;
- 18 (3) Number of policies;
- 19 (4) Net investment income, using appropriate estimates
- 20 where necessary;
- 21 (5) Losses paid;
- 22 (6) Losses incurred;
- 23 (7) Loss reserves:
- 24 (a) Losses unpaid on reported claims;
- 25 (b) Losses unpaid on incurred but not reported
- 26 claims;
- 27 (8) Number of claims:
- 28 (a) Paid claims;
- 29 (b) Arising claims;
- 30 (9) Loss adjustment expenses:
- 31 (a) Allocated loss adjustment expenses;
- 32 (b) Unallocated loss adjustment expenses;
- 33 (10) Net underwriting gain or loss;
- 34 (11) Net operation gain or loss, including net

1 investment income;

2 (12) Any other information requested by the Director.

3 (C-5) Additional information required from medical
4 malpractice insurers.

5 (1) In addition to the other requirements of this
6 Section, all medical malpractice insurers shall include
7 the following information in the report required by
8 subsection (A) of this Section in such form and under such
9 terms and conditions as may be prescribed by the Director:

10 (a) paid and incurred losses by county for each of
11 the past 10 policy years; and

12 (b) earned exposures by ISO code, policy type, and
13 policy year by county for each of the past 10 years.

14 (2) All information collected by the Director under
15 paragraph (1) of this subsection (C-5) shall be made
16 available, on a company by company basis, to the General
17 Assembly and the general public. This provision shall
18 supersede any other provision of law that may otherwise
19 protect such information from public disclosure as
20 confidential.

21 (D) In addition to the information which may be requested
22 under subsection (C), the Director may also request on a
23 companywide, aggregate basis, Federal Income Tax recoverable,
24 net realized capital gain or loss, net unrealized capital gain
25 or loss, and all other expenses not requested in subsection (C)
26 above.

27 (E) Violations - Suspensions - Revocations.

28 (1) Any company or person subject to this Article, who
29 willfully or repeatedly fails to observe or who otherwise
30 violates any of the provisions of this Article or any rule
31 or regulation promulgated by the Director under authority
32 of this Article or any final order of the Director entered
33 under the authority of this Article shall by civil penalty
34 forfeit to the State of Illinois a sum not to exceed

1 \$2,000. Each day during which a violation occurs
2 constitutes a separate offense.

3 (2) No forfeiture liability under paragraph (1) of this
4 subsection may attach unless a written notice of apparent
5 liability has been issued by the Director and received by
6 the respondent, or the Director sends written notice of
7 apparent liability by registered or certified mail, return
8 receipt requested, to the last known address of the
9 respondent. Any respondent so notified must be granted an
10 opportunity to request a hearing within 10 days from
11 receipt of notice, or to show in writing, why he should not
12 be held liable. A notice issued under this Section must set
13 forth the date, facts and nature of the act or omission
14 with which the respondent is charged and must specifically
15 identify the particular provision of this Article, rule,
16 regulation or order of which a violation is charged.

17 (3) No forfeiture liability under paragraph (1) of this
18 subsection may attach for any violation occurring more than
19 2 years prior to the date of issuance of the notice of
20 apparent liability and in no event may the total civil
21 penalty forfeiture imposed for the acts or omissions set
22 forth in any one notice of apparent liability exceed
23 \$100,000.

24 (4) All administrative hearings conducted pursuant to
25 this Article are subject to 50 Ill. Adm. Code 2402 and all
26 administrative hearings are subject to the Administrative
27 Review Law.

28 (5) The civil penalty forfeitures provided for in this
29 Section are payable to the General Revenue Fund of the
30 State of Illinois, and may be recovered in a civil suit in
31 the name of the State of Illinois brought in the Circuit
32 Court in Sangamon County or in the Circuit Court of the
33 county where the respondent is domiciled or has its
34 principal operating office.

1 (6) In any case where the Director issues a notice of
2 apparent liability looking toward the imposition of a civil
3 penalty forfeiture under this Section that fact may not be
4 used in any other proceeding before the Director to the
5 prejudice of the respondent to whom the notice was issued,
6 unless (a) the civil penalty forfeiture has been paid, or
7 (b) a court has ordered payment of the civil penalty
8 forfeiture and that order has become final.

9 (7) When any person or company has a license or
10 certificate of authority under this Code and knowingly
11 fails or refuses to comply with a lawful order of the
12 Director requiring compliance with this Article, entered
13 after notice and hearing, within the period of time
14 specified in the order, the Director may, in addition to
15 any other penalty or authority provided, revoke or refuse
16 to renew the license or certificate of authority of such
17 person or company, or may suspend the license or
18 certificate of authority of such person or company until
19 compliance with such order has been obtained.

20 (8) When any person or company has a license or
21 certificate of authority under this Code and knowingly
22 fails or refuses to comply with any provisions of this
23 Article, the Director may, after notice and hearing, in
24 addition to any other penalty provided, revoke or refuse to
25 renew the license or certificate of authority of such
26 person or company, or may suspend the license or
27 certificate of authority of such person or company, until
28 compliance with such provision of this Article has been
29 obtained.

30 (9) No suspension or revocation under this Section may
31 become effective until 5 days from the date that the notice
32 of suspension or revocation has been personally delivered
33 or delivered by registered or certified mail to the company
34 or person. A suspension or revocation under this Section is

1 stayed upon the filing, by the company or person, of a
2 petition for judicial review under the Administrative
3 Review Law.

4 (Source: P.A. 93-32, eff. 7-1-03.)

5 Section 315. The Medical Practice Act of 1987 is amended by
6 changing Sections 7, 22, 23, 24, and 36 as follows:

7 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

8 (Section scheduled to be repealed on January 1, 2007)

9 Sec. 7. Medical Disciplinary Board.

10 (A) There is hereby created the Illinois State Medical
11 Disciplinary Board (hereinafter referred to as the
12 "Disciplinary Board"). The Disciplinary Board shall consist of
13 11 ~~9~~ members, to be appointed by the Governor by and with the
14 advice and consent of the Senate. All members shall be
15 residents of the State, not more than 6 ~~5~~ of whom shall be
16 members of the same political party. All members shall be
17 voting members. Five members shall be physicians licensed to
18 practice medicine in all of its branches in Illinois possessing
19 the degree of doctor of medicine, and it shall be the goal that
20 at least one of the members practice in the field of
21 neurosurgery, one of the members practice in the field of
22 obstetrics and gynecology, and one of the members practice in
23 the field of cardiology. One member shall be a physician
24 licensed to practice in Illinois possessing the degree of
25 doctor of osteopathy or osteopathic medicine. One member shall
26 be a physician licensed to practice in Illinois and possessing
27 the degree of doctor of chiropractic. Four members ~~Two~~ shall be
28 members of the public, who shall not be engaged in any way,
29 directly or indirectly, as providers of health care. ~~The 2~~
30 ~~public members shall act as voting members. One member shall be~~
31 ~~a physician licensed to practice in Illinois possessing the~~
32 ~~degree of doctor of osteopathy or osteopathic medicine. One~~

1 ~~member shall be a physician licensed to practice in Illinois~~
2 ~~and possessing the degree of doctor of chiropractic.~~

3 (B) Members of the Disciplinary Board shall be appointed
4 for terms of 4 years. Upon the expiration of the term of any
5 member, their successor shall be appointed for a term of 4
6 years by the Governor by and with the advice and consent of the
7 Senate. The Governor shall fill any vacancy for the remainder
8 of the unexpired term by and with the advice and consent of the
9 Senate. Upon recommendation of the Board, any member of the
10 Disciplinary Board may be removed by the Governor for
11 misfeasance, malfeasance, or wilful neglect of duty, after
12 notice, and a public hearing, unless such notice and hearing
13 shall be expressly waived in writing. Each member shall serve
14 on the Disciplinary Board until their successor is appointed
15 and qualified. No member of the Disciplinary Board shall serve
16 more than 2 consecutive 4 year terms.

17 In making appointments the Governor shall attempt to insure
18 that the various social and geographic regions of the State of
19 Illinois are properly represented.

20 In making the designation of persons to act for the several
21 professions represented on the Disciplinary Board, the
22 Governor shall give due consideration to recommendations by
23 members of the respective professions and by organizations
24 therein.

25 (C) The Disciplinary Board shall annually elect one of its
26 voting members as chairperson and one as vice chairperson. No
27 officer shall be elected more than twice in succession to the
28 same office. Each officer shall serve until their successor has
29 been elected and qualified.

30 (D) (Blank).

31 (E) Six ~~Four~~ voting members of the Disciplinary Board shall
32 constitute a quorum. A vacancy in the membership of the
33 Disciplinary Board shall not impair the right of a quorum to
34 exercise all the rights and perform all the duties of the

1 Disciplinary Board. Any action taken by the Disciplinary Board
2 under this Act may be authorized by resolution at any regular
3 or special meeting and each such resolution shall take effect
4 immediately. The Disciplinary Board shall meet at least
5 quarterly. The Disciplinary Board is empowered to adopt all
6 rules and regulations necessary and incident to the powers
7 granted to it under this Act.

8 (F) Each member, and member-officer, of the Disciplinary
9 Board shall receive a per diem stipend as the Director of the
10 Department, hereinafter referred to as the Director, shall
11 determine. The Director shall also determine the per diem
12 stipend that each ex-officio member shall receive. Each member
13 shall be paid their necessary expenses while engaged in the
14 performance of their duties.

15 (G) The Director shall select a Chief Medical Coordinator
16 and not less than 2 ~~a~~ Deputy Medical Coordinators ~~Coordinator~~
17 who shall not be members of the Disciplinary Board. Each
18 medical coordinator shall be a physician licensed to practice
19 medicine in all of its branches, and the Director shall set
20 their rates of compensation. The Director shall assign at least
21 one medical coordinator to a region composed of Cook County and
22 such other counties as the Director may deem appropriate, and
23 such medical coordinator or coordinators shall locate their
24 office in Chicago. The Director shall assign at least one ~~the~~
25 ~~remaining~~ medical coordinator to a region composed of the
26 balance of counties in the State, and such medical coordinator
27 or coordinators shall locate their office in Springfield. Each
28 medical coordinator shall be the chief enforcement officer of
29 this Act in his or her ~~their~~ assigned region and shall serve at
30 the will of the Disciplinary Board.

31 The Director shall employ, in conformity with the Personnel
32 Code, not less than one full time investigator for every 2,500
33 ~~5000~~ physicians licensed in the State. Each investigator shall
34 be a college graduate with at least 2 years' investigative

1 experience or one year advanced medical education. Upon the
2 written request of the Disciplinary Board, the Director shall
3 employ, in conformity with the Personnel Code, such other
4 professional, technical, investigative, and clerical help,
5 either on a full or part-time basis as the Disciplinary Board
6 deems necessary for the proper performance of its duties.

7 (H) Upon the specific request of the Disciplinary Board,
8 signed by either the chairman, vice chairman, or a medical
9 coordinator of the Disciplinary Board, the Department of Human
10 Services or the Department of State Police shall make available
11 any and all information that they have in their possession
12 regarding a particular case then under investigation by the
13 Disciplinary Board.

14 (I) Members of the Disciplinary Board shall be immune from
15 suit in any action based upon any disciplinary proceedings or
16 other acts performed in good faith as members of the
17 Disciplinary Board.

18 (J) The Disciplinary Board may compile and establish a
19 statewide roster of physicians and other medical
20 professionals, including the several medical specialties, of
21 such physicians and medical professionals, who have agreed to
22 serve from time to time as advisors to the medical
23 coordinators. Such advisors shall assist the medical
24 coordinators in their investigations and participation in
25 complaints against physicians. Such advisors shall serve under
26 contract and shall be reimbursed at a reasonable rate for the
27 services provided, plus reasonable expenses incurred. While
28 serving in this capacity, the advisor, for any act undertaken
29 in good faith and in the conduct of their duties under this
30 Section, shall be immune from civil suit.

31 (Source: P.A. 93-138, eff. 7-10-03.)

32 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

33 (Section scheduled to be repealed on January 1, 2007)

1 Sec. 22. Disciplinary action.

2 (A) The Department may revoke, suspend, place on
3 probationary status, refuse to renew, or take any other
4 disciplinary action as the Department may deem proper with
5 regard to the license or visiting professor permit of any
6 person issued under this Act to practice medicine, or to treat
7 human ailments without the use of drugs and without operative
8 surgery upon any of the following grounds:

9 (1) Performance of an elective abortion in any place,
10 locale, facility, or institution other than:

11 (a) a facility licensed pursuant to the Ambulatory
12 Surgical Treatment Center Act;

13 (b) an institution licensed under the Hospital
14 Licensing Act; or

15 (c) an ambulatory surgical treatment center or
16 hospitalization or care facility maintained by the
17 State or any agency thereof, where such department or
18 agency has authority under law to establish and enforce
19 standards for the ambulatory surgical treatment
20 centers, hospitalization, or care facilities under its
21 management and control; or

22 (d) ambulatory surgical treatment centers,
23 hospitalization or care facilities maintained by the
24 Federal Government; or

25 (e) ambulatory surgical treatment centers,
26 hospitalization or care facilities maintained by any
27 university or college established under the laws of
28 this State and supported principally by public funds
29 raised by taxation.

30 (2) Performance of an abortion procedure in a wilful
31 and wanton manner on a woman who was not pregnant at the
32 time the abortion procedure was performed.

33 (3) The conviction of a felony in this or any other
34 jurisdiction, except as otherwise provided in subsection B

1 of this Section, whether or not related to practice under
2 this Act, or the entry of a guilty or nolo contendere plea
3 to a felony charge.

4 (4) Gross negligence in practice under this Act.

5 (5) Engaging in dishonorable, unethical or
6 unprofessional conduct of a character likely to deceive,
7 defraud or harm the public.

8 (6) Obtaining any fee by fraud, deceit, or
9 misrepresentation.

10 (7) Habitual or excessive use or abuse of drugs defined
11 in law as controlled substances, of alcohol, or of any
12 other substances which results in the inability to practice
13 with reasonable judgment, skill or safety.

14 (8) Practicing under a false or, except as provided by
15 law, an assumed name.

16 (9) Fraud or misrepresentation in applying for, or
17 procuring, a license under this Act or in connection with
18 applying for renewal of a license under this Act.

19 (10) Making a false or misleading statement regarding
20 their skill or the efficacy or value of the medicine,
21 treatment, or remedy prescribed by them at their direction
22 in the treatment of any disease or other condition of the
23 body or mind.

24 (11) Allowing another person or organization to use
25 their license, procured under this Act, to practice.

26 (12) Disciplinary action of another state or
27 jurisdiction against a license or other authorization to
28 practice as a medical doctor, doctor of osteopathy, doctor
29 of osteopathic medicine or doctor of chiropractic, a
30 certified copy of the record of the action taken by the
31 other state or jurisdiction being prima facie evidence
32 thereof.

33 (13) Violation of any provision of this Act or of the
34 Medical Practice Act prior to the repeal of that Act, or

1 violation of the rules, or a final administrative action of
2 the Director, after consideration of the recommendation of
3 the Disciplinary Board.

4 (14) Dividing with anyone other than physicians with
5 whom the licensee practices in a partnership, Professional
6 Association, limited liability company, or Medical or
7 Professional Corporation any fee, commission, rebate or
8 other form of compensation for any professional services
9 not actually and personally rendered. Nothing contained in
10 this subsection prohibits persons holding valid and
11 current licenses under this Act from practicing medicine in
12 partnership under a partnership agreement, including a
13 limited liability partnership, in a limited liability
14 company under the Limited Liability Company Act, in a
15 corporation authorized by the Medical Corporation Act, as
16 an association authorized by the Professional Association
17 Act, or in a corporation under the Professional Corporation
18 Act or from pooling, sharing, dividing or apportioning the
19 fees and monies received by them or by the partnership,
20 corporation or association in accordance with the
21 partnership agreement or the policies of the Board of
22 Directors of the corporation or association. Nothing
23 contained in this subsection prohibits 2 or more
24 corporations authorized by the Medical Corporation Act,
25 from forming a partnership or joint venture of such
26 corporations, and providing medical, surgical and
27 scientific research and knowledge by employees of these
28 corporations if such employees are licensed under this Act,
29 or from pooling, sharing, dividing, or apportioning the
30 fees and monies received by the partnership or joint
31 venture in accordance with the partnership or joint venture
32 agreement. Nothing contained in this subsection shall
33 abrogate the right of 2 or more persons, holding valid and
34 current licenses under this Act, to each receive adequate

1 compensation for concurrently rendering professional
2 services to a patient and divide a fee; provided, the
3 patient has full knowledge of the division, and, provided,
4 that the division is made in proportion to the services
5 performed and responsibility assumed by each.

6 (15) A finding by the Medical Disciplinary Board that
7 the registrant after having his or her license placed on
8 probationary status or subjected to conditions or
9 restrictions violated the terms of the probation or failed
10 to comply with such terms or conditions.

11 (16) Abandonment of a patient.

12 (17) Prescribing, selling, administering,
13 distributing, giving or self-administering any drug
14 classified as a controlled substance (designated product)
15 or narcotic for other than medically accepted therapeutic
16 purposes.

17 (18) Promotion of the sale of drugs, devices,
18 appliances or goods provided for a patient in such manner
19 as to exploit the patient for financial gain of the
20 physician.

21 (19) Offering, undertaking or agreeing to cure or treat
22 disease by a secret method, procedure, treatment or
23 medicine, or the treating, operating or prescribing for any
24 human condition by a method, means or procedure which the
25 licensee refuses to divulge upon demand of the Department.

26 (20) Immoral conduct in the commission of any act
27 including, but not limited to, commission of an act of
28 sexual misconduct related to the licensee's practice.

29 (21) Wilfully making or filing false records or reports
30 in his or her practice as a physician, including, but not
31 limited to, false records to support claims against the
32 medical assistance program of the Department of Public Aid
33 under the Illinois Public Aid Code.

34 (22) Wilful omission to file or record, or wilfully

1 impeding the filing or recording, or inducing another
2 person to omit to file or record, medical reports as
3 required by law, or wilfully failing to report an instance
4 of suspected abuse or neglect as required by law.

5 (23) Being named as a perpetrator in an indicated
6 report by the Department of Children and Family Services
7 under the Abused and Neglected Child Reporting Act, and
8 upon proof by clear and convincing evidence that the
9 licensee has caused a child to be an abused child or
10 neglected child as defined in the Abused and Neglected
11 Child Reporting Act.

12 (24) Solicitation of professional patronage by any
13 corporation, agents or persons, or profiting from those
14 representing themselves to be agents of the licensee.

15 (25) Gross and wilful and continued overcharging for
16 professional services, including filing false statements
17 for collection of fees for which services are not rendered,
18 including, but not limited to, filing such false statements
19 for collection of monies for services not rendered from the
20 medical assistance program of the Department of Public Aid
21 under the Illinois Public Aid Code.

22 (26) A pattern of practice or other behavior which
23 demonstrates incapacity or incompetence to practice under
24 this Act.

25 (27) Mental illness or disability which results in the
26 inability to practice under this Act with reasonable
27 judgment, skill or safety.

28 (28) Physical illness, including, but not limited to,
29 deterioration through the aging process, or loss of motor
30 skill which results in a physician's inability to practice
31 under this Act with reasonable judgment, skill or safety.

32 (29) Cheating on or attempt to subvert the licensing
33 examinations administered under this Act.

34 (30) Wilfully or negligently violating the

1 confidentiality between physician and patient except as
2 required by law.

3 (31) The use of any false, fraudulent, or deceptive
4 statement in any document connected with practice under
5 this Act.

6 (32) Aiding and abetting an individual not licensed
7 under this Act in the practice of a profession licensed
8 under this Act.

9 (33) Violating state or federal laws or regulations
10 relating to controlled substances, legend drugs, or
11 ephedra, as defined in the Ephedra Prohibition Act.

12 (34) Failure to report to the Department any adverse
13 final action taken against them by another licensing
14 jurisdiction (any other state or any territory of the
15 United States or any foreign state or country), by any peer
16 review body, by any health care institution, by any
17 professional society or association related to practice
18 under this Act, by any governmental agency, by any law
19 enforcement agency, or by any court for acts or conduct
20 similar to acts or conduct which would constitute grounds
21 for action as defined in this Section.

22 (35) Failure to report to the Department surrender of a
23 license or authorization to practice as a medical doctor, a
24 doctor of osteopathy, a doctor of osteopathic medicine, or
25 doctor of chiropractic in another state or jurisdiction, or
26 surrender of membership on any medical staff or in any
27 medical or professional association or society, while
28 under disciplinary investigation by any of those
29 authorities or bodies, for acts or conduct similar to acts
30 or conduct which would constitute grounds for action as
31 defined in this Section.

32 (36) Failure to report to the Department any adverse
33 judgment, settlement, or award arising from a liability
34 claim related to acts or conduct similar to acts or conduct

1 which would constitute grounds for action as defined in
2 this Section.

3 (37) Failure to transfer copies of medical records as
4 required by law.

5 (38) Failure to furnish the Department, its
6 investigators or representatives, relevant information,
7 legally requested by the Department after consultation
8 with the Chief Medical Coordinator or the Deputy Medical
9 Coordinator.

10 (39) Violating the Health Care Worker Self-Referral
11 Act.

12 (40) Willful failure to provide notice when notice is
13 required under the Parental Notice of Abortion Act of 1995.

14 (41) Failure to establish and maintain records of
15 patient care and treatment as required by this law.

16 (42) Entering into an excessive number of written
17 collaborative agreements with licensed advanced practice
18 nurses resulting in an inability to adequately collaborate
19 and provide medical direction.

20 (43) Repeated failure to adequately collaborate with
21 or provide medical direction to a licensed advanced
22 practice nurse.

23 Except for actions involving the ground numbered (26), all
24 ~~All~~ proceedings to suspend, revoke, place on probationary
25 status, or take any other disciplinary action as the Department
26 may deem proper, with regard to a license on any of the
27 foregoing grounds, must be commenced within 5 ~~3~~ years next
28 after receipt by the Department of a complaint alleging the
29 commission of or notice of the conviction order for any of the
30 acts described herein. Except for the grounds numbered (8),
31 (9), (26), and (29), no action shall be commenced more than 10
32 ~~5~~ years after the date of the incident or act alleged to have
33 violated this Section. For actions involving the ground
34 numbered (26), a pattern of practice or other behavior includes

1 any incident that occurred within 10 years before the last
2 incident alleged to be part of the pattern of practice or other
3 behavior, regardless of whether the underlying incident or act
4 in the pattern is time-barred. An action involving the ground
5 numbered (26) must be commenced within the time limits for
6 proceedings for the last incident or act alleged as part of the
7 pattern of practice or other behavior. In the event of the
8 settlement of any claim or cause of action in favor of the
9 claimant or the reduction to final judgment of any civil action
10 in favor of the plaintiff, such claim, cause of action or civil
11 action being grounded on the allegation that a person licensed
12 under this Act was negligent in providing care, the Department
13 shall have an additional period of 2 years ~~one year~~ from the
14 date of notification to the Department under Section 23 of this
15 Act of such settlement or final judgment in which to
16 investigate and commence formal disciplinary proceedings under
17 Section 36 of this Act, except as otherwise provided by law.
18 The Department shall expunge the records of discipline solely
19 for administrative matters 3 years after final disposition or
20 after the statute of limitations has expired, whichever is
21 later. The time during which the holder of the license was
22 outside the State of Illinois shall not be included within any
23 period of time limiting the commencement of disciplinary action
24 by the Department.

25 The entry of an order or judgment by any circuit court
26 establishing that any person holding a license under this Act
27 is a person in need of mental treatment operates as a
28 suspension of that license. That person may resume their
29 practice only upon the entry of a Departmental order based upon
30 a finding by the Medical Disciplinary Board that they have been
31 determined to be recovered from mental illness by the court and
32 upon the Disciplinary Board's recommendation that they be
33 permitted to resume their practice.

34 The Department may refuse to issue or take disciplinary

1 action concerning the license of any person who fails to file a
2 return, or to pay the tax, penalty or interest shown in a filed
3 return, or to pay any final assessment of tax, penalty or
4 interest, as required by any tax Act administered by the
5 Illinois Department of Revenue, until such time as the
6 requirements of any such tax Act are satisfied as determined by
7 the Illinois Department of Revenue.

8 The Department, upon the recommendation of the
9 Disciplinary Board, shall adopt rules which set forth standards
10 to be used in determining:

11 (a) when a person will be deemed sufficiently
12 rehabilitated to warrant the public trust;

13 (b) what constitutes dishonorable, unethical or
14 unprofessional conduct of a character likely to deceive,
15 defraud, or harm the public;

16 (c) what constitutes immoral conduct in the commission
17 of any act, including, but not limited to, commission of an
18 act of sexual misconduct related to the licensee's
19 practice; and

20 (d) what constitutes gross negligence in the practice
21 of medicine.

22 However, no such rule shall be admissible into evidence in
23 any civil action except for review of a licensing or other
24 disciplinary action under this Act.

25 In enforcing this Section, the Medical Disciplinary Board,
26 upon a showing of a possible violation, may compel any
27 individual licensed to practice under this Act, or who has
28 applied for licensure or a permit pursuant to this Act, to
29 submit to a mental or physical examination, or both, as
30 required by and at the expense of the Department. The examining
31 physician or physicians shall be those specifically designated
32 by the Disciplinary Board. The Medical Disciplinary Board or
33 the Department may order the examining physician to present
34 testimony concerning this mental or physical examination of the

1 licensee or applicant. No information shall be excluded by
2 reason of any common law or statutory privilege relating to
3 communication between the licensee or applicant and the
4 examining physician. The individual to be examined may have, at
5 his or her own expense, another physician of his or her choice
6 present during all aspects of the examination. Failure of any
7 individual to submit to mental or physical examination, when
8 directed, shall be grounds for suspension of his or her license
9 until such time as the individual submits to the examination if
10 the Disciplinary Board finds, after notice and hearing, that
11 the refusal to submit to the examination was without reasonable
12 cause. If the Disciplinary Board finds a physician unable to
13 practice because of the reasons set forth in this Section, the
14 Disciplinary Board shall require such physician to submit to
15 care, counseling, or treatment by physicians approved or
16 designated by the Disciplinary Board, as a condition for
17 continued, reinstated, or renewed licensure to practice. Any
18 physician, whose license was granted pursuant to Sections 9,
19 17, or 19 of this Act, or, continued, reinstated, renewed,
20 disciplined or supervised, subject to such terms, conditions or
21 restrictions who shall fail to comply with such terms,
22 conditions or restrictions, or to complete a required program
23 of care, counseling, or treatment, as determined by the Chief
24 Medical Coordinator or Deputy Medical Coordinators, shall be
25 referred to the Director for a determination as to whether the
26 licensee shall have their license suspended immediately,
27 pending a hearing by the Disciplinary Board. In instances in
28 which the Director immediately suspends a license under this
29 Section, a hearing upon such person's license must be convened
30 by the Disciplinary Board within 15 days after such suspension
31 and completed without appreciable delay. The Disciplinary
32 Board shall have the authority to review the subject
33 physician's record of treatment and counseling regarding the
34 impairment, to the extent permitted by applicable federal

1 statutes and regulations safeguarding the confidentiality of
2 medical records.

3 An individual licensed under this Act, affected under this
4 Section, shall be afforded an opportunity to demonstrate to the
5 Disciplinary Board that they can resume practice in compliance
6 with acceptable and prevailing standards under the provisions
7 of their license.

8 The Department may promulgate rules for the imposition of
9 fines in disciplinary cases, not to exceed \$10,000 ~~\$5,000~~ for
10 each violation of this Act. Fines may be imposed in conjunction
11 with other forms of disciplinary action, but shall not be the
12 exclusive disposition of any disciplinary action arising out of
13 conduct resulting in death or injury to a patient. Any funds
14 collected from such fines shall be deposited in the Medical
15 Disciplinary Fund.

16 (B) The Department shall revoke the license or visiting
17 permit of any person issued under this Act to practice medicine
18 or to treat human ailments without the use of drugs and without
19 operative surgery, who has been convicted a second time of
20 committing any felony under the Illinois Controlled Substances
21 Act, or who has been convicted a second time of committing a
22 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois
23 Public Aid Code. A person whose license or visiting permit is
24 revoked under this subsection B of Section 22 of this Act shall
25 be prohibited from practicing medicine or treating human
26 ailments without the use of drugs and without operative
27 surgery.

28 (C) The Medical Disciplinary Board shall recommend to the
29 Department civil penalties and any other appropriate
30 discipline in disciplinary cases when the Board finds that a
31 physician willfully performed an abortion with actual
32 knowledge that the person upon whom the abortion has been
33 performed is a minor or an incompetent person without notice as
34 required under the Parental Notice of Abortion Act of 1995.

1 Upon the Board's recommendation, the Department shall impose,
2 for the first violation, a civil penalty of \$1,000 and for a
3 second or subsequent violation, a civil penalty of \$5,000.

4 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626,
5 eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

6 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

7 (Section scheduled to be repealed on January 1, 2007)

8 Sec. 23. Reports relating to professional conduct and
9 capacity.

10 (A) Entities required to report.

11 (1) Health care institutions. The chief administrator
12 or executive officer of any health care institution
13 licensed by the Illinois Department of Public Health shall
14 report to the Disciplinary Board when any person's clinical
15 privileges are terminated or are restricted based on a
16 final determination, in accordance with that institution's
17 by-laws or rules and regulations, that a person has either
18 committed an act or acts which may directly threaten
19 patient care, and not of an administrative nature, or that
20 a person may be mentally or physically disabled in such a
21 manner as to endanger patients under that person's care.
22 Such officer also shall report if a person accepts
23 voluntary termination or restriction of clinical
24 privileges in lieu of formal action based upon conduct
25 related directly to patient care and not of an
26 administrative nature, or in lieu of formal action seeking
27 to determine whether a person may be mentally or physically
28 disabled in such a manner as to endanger patients under
29 that person's care. The Medical Disciplinary Board shall,
30 by rule, provide for the reporting to it of all instances
31 in which a person, licensed under this Act, who is impaired
32 by reason of age, drug or alcohol abuse or physical or
33 mental impairment, is under supervision and, where

1 appropriate, is in a program of rehabilitation. Such
2 reports shall be strictly confidential and may be reviewed
3 and considered only by the members of the Disciplinary
4 Board, or by authorized staff as provided by rules of the
5 Disciplinary Board. Provisions shall be made for the
6 periodic report of the status of any such person not less
7 than twice annually in order that the Disciplinary Board
8 shall have current information upon which to determine the
9 status of any such person. Such initial and periodic
10 reports of impaired physicians shall not be considered
11 records within the meaning of The State Records Act and
12 shall be disposed of, following a determination by the
13 Disciplinary Board that such reports are no longer
14 required, in a manner and at such time as the Disciplinary
15 Board shall determine by rule. The filing of such reports
16 shall be construed as the filing of a report for purposes
17 of subsection (C) of this Section.

18 (2) Professional associations. The President or chief
19 executive officer of any association or society, of persons
20 licensed under this Act, operating within this State shall
21 report to the Disciplinary Board when the association or
22 society renders a final determination that a person has
23 committed unprofessional conduct related directly to
24 patient care or that a person may be mentally or physically
25 disabled in such a manner as to endanger patients under
26 that person's care.

27 (3) Professional liability insurers. Every insurance
28 company which offers policies of professional liability
29 insurance to persons licensed under this Act, or any other
30 entity which seeks to indemnify the professional liability
31 of a person licensed under this Act, shall report to the
32 Disciplinary Board the settlement of any claim or cause of
33 action, or final judgment rendered in any cause of action,
34 which alleged negligence in the furnishing of medical care

1 by such licensed person when such settlement or final
2 judgment is in favor of the plaintiff.

3 (4) State's Attorneys. The State's Attorney of each
4 county shall report to the Disciplinary Board all instances
5 in which a person licensed under this Act is convicted or
6 otherwise found guilty of the commission of any felony. The
7 State's Attorney of each county may report to the
8 Disciplinary Board through a verified complaint any
9 instance in which the State's Attorney believes that a
10 physician has willfully violated the notice requirements
11 of the Parental Notice of Abortion Act of 1995.

12 (5) State agencies. All agencies, boards, commissions,
13 departments, or other instrumentalities of the government
14 of the State of Illinois shall report to the Disciplinary
15 Board any instance arising in connection with the
16 operations of such agency, including the administration of
17 any law by such agency, in which a person licensed under
18 this Act has either committed an act or acts which may be a
19 violation of this Act or which may constitute
20 unprofessional conduct related directly to patient care or
21 which indicates that a person licensed under this Act may
22 be mentally or physically disabled in such a manner as to
23 endanger patients under that person's care.

24 (B) Mandatory reporting. All reports required by items
25 (34), (35), and (36) of subsection (A) of Section 22 and by
26 Section 23 shall be submitted to the Disciplinary Board in a
27 timely fashion. The reports shall be filed in writing within 60
28 days after a determination that a report is required under this
29 Act. All reports shall contain the following information:

30 (1) The name, address and telephone number of the
31 person making the report.

32 (2) The name, address and telephone number of the
33 person who is the subject of the report.

34 (3) The name and date of birth ~~or other means of~~

1 ~~identification~~ of any patient or patients whose treatment
2 is a subject of the report, if available, or other means of
3 identification if such information is not available,
4 identification of the hospital or other healthcare
5 facility where the care at issue in the report was
6 rendered, and any medical records related to the report
7 ~~provided, however, no medical records may be revealed~~
8 ~~without the written consent of the patient or patients.~~

9 (4) A brief description of the facts which gave rise to
10 the issuance of the report, including the dates of any
11 occurrences deemed to necessitate the filing of the report.

12 (5) If court action is involved, the identity of the
13 court in which the action is filed, along with the docket
14 number and date of filing of the action.

15 (6) Any further pertinent information which the
16 reporting party deems to be an aid in the evaluation of the
17 report.

18 ~~The Department shall have the right to inform patients of~~
19 ~~the right to provide written consent for the Department to~~
20 ~~obtain copies of hospital and medical records.~~ The Disciplinary
21 Board or Department may also exercise the power under Section
22 38 of this Act to subpoena copies of hospital or medical
23 records in mandatory report cases alleging death or permanent
24 bodily injury ~~when consent to obtain records is not provided by~~
25 ~~a patient or legal representative.~~ Appropriate rules shall be
26 adopted by the Department with the approval of the Disciplinary
27 Board.

28 When the Department has received written reports
29 concerning incidents required to be reported in items (34),
30 (35), and (36) of subsection (A) of Section 22, the licensee's
31 failure to report the incident to the Department under those
32 items shall not be the sole grounds for disciplinary action.

33 Nothing contained in this Section shall act to in any way,
34 waive or modify the confidentiality of medical reports and

1 committee reports to the extent provided by law. Any
2 information reported or disclosed shall be kept for the
3 confidential use of the Disciplinary Board, the Medical
4 Coordinators, the Disciplinary Board's attorneys, the medical
5 investigative staff, and authorized clerical staff, as
6 provided in this Act, and shall be afforded the same status as
7 is provided information concerning medical studies in Part 21
8 of Article VIII of the Code of Civil Procedure, except that the
9 Department may disclose information and documents to a federal,
10 State, or local law enforcement agency pursuant to a subpoena
11 in an ongoing criminal investigation. Furthermore, information
12 and documents disclosed to a federal, State, or local law
13 enforcement agency may be used by that agency only for the
14 investigation and prosecution of a criminal offense.

15 (C) Immunity from prosecution. Any individual or
16 organization acting in good faith, and not in a wilful and
17 wanton manner, in complying with this Act by providing any
18 report or other information to the Disciplinary Board or a peer
19 review committee, or assisting in the investigation or
20 preparation of such information, or by voluntarily reporting to
21 the Disciplinary Board or a peer review committee information
22 regarding alleged errors or negligence by a person licensed
23 under this Act, or by participating in proceedings of the
24 Disciplinary Board or a peer review committee, or by serving as
25 a member of the Disciplinary Board or a peer review committee,
26 shall not, as a result of such actions, be subject to criminal
27 prosecution or civil damages.

28 (D) Indemnification. Members of the Disciplinary Board,
29 the Medical Coordinators, the Disciplinary Board's attorneys,
30 the medical investigative staff, physicians retained under
31 contract to assist and advise the medical coordinators in the
32 investigation, and authorized clerical staff shall be
33 indemnified by the State for any actions occurring within the
34 scope of services on the Disciplinary Board, done in good faith

1 and not wilful and wanton in nature. The Attorney General shall
2 defend all such actions unless he or she determines either that
3 there would be a conflict of interest in such representation or
4 that the actions complained of were not in good faith or were
5 wilful and wanton.

6 Should the Attorney General decline representation, the
7 member shall have the right to employ counsel of his or her
8 choice, whose fees shall be provided by the State, after
9 approval by the Attorney General, unless there is a
10 determination by a court that the member's actions were not in
11 good faith or were wilful and wanton.

12 The member must notify the Attorney General within 7 days
13 of receipt of notice of the initiation of any action involving
14 services of the Disciplinary Board. Failure to so notify the
15 Attorney General shall constitute an absolute waiver of the
16 right to a defense and indemnification.

17 The Attorney General shall determine within 7 days after
18 receiving such notice, whether he or she will undertake to
19 represent the member.

20 (E) Deliberations of Disciplinary Board. Upon the receipt
21 of any report called for by this Act, other than those reports
22 of impaired persons licensed under this Act required pursuant
23 to the rules of the Disciplinary Board, the Disciplinary Board
24 shall notify in writing, by certified mail, the person who is
25 the subject of the report. Such notification shall be made
26 within 30 days of receipt by the Disciplinary Board of the
27 report.

28 The notification shall include a written notice setting
29 forth the person's right to examine the report. Included in
30 such notification shall be the address at which the file is
31 maintained, the name of the custodian of the reports, and the
32 telephone number at which the custodian may be reached. The
33 person who is the subject of the report shall submit a written
34 statement responding, clarifying, adding to, or proposing the

1 amending of the report previously filed. The person who is the
2 subject of the report shall also submit with the written
3 statement any medical records related to the report. The
4 statement and accompanying medical records shall become a
5 permanent part of the file and must be received by the
6 Disciplinary Board no more than 60 days after the date on which
7 the person was notified by the Disciplinary Board of the
8 existence of the original report.

9 The Disciplinary Board shall review all reports received by
10 it, together with any supporting information and responding
11 statements submitted by persons who are the subject of reports.
12 The review by the Disciplinary Board shall be in a timely
13 manner but in no event, shall the Disciplinary Board's initial
14 review of the material contained in each disciplinary file be
15 less than 61 days nor more than 180 days after the receipt of
16 the initial report by the Disciplinary Board.

17 When the Disciplinary Board makes its initial review of the
18 materials contained within its disciplinary files, the
19 Disciplinary Board shall, in writing, make a determination as
20 to whether there are sufficient facts to warrant further
21 investigation or action. Failure to make such determination
22 within the time provided shall be deemed to be a determination
23 that there are not sufficient facts to warrant further
24 investigation or action.

25 Should the Disciplinary Board find that there are not
26 sufficient facts to warrant further investigation, or action,
27 the report shall be accepted for filing and the matter shall be
28 deemed closed and so reported to the Director. The Director
29 shall then have 30 days to accept the Medical Disciplinary
30 Board's decision or request further investigation. The
31 Director shall inform the Board in writing of the decision to
32 request further investigation, including the specific reasons
33 for the decision. The individual or entity filing the original
34 report or complaint and the person who is the subject of the

1 report or complaint shall be notified in writing by the
2 Director of any final action on their report or complaint.

3 (F) Summary reports. The Disciplinary Board shall prepare,
4 on a timely basis, but in no event less than one every other
5 month, a summary report of final actions taken upon
6 disciplinary files maintained by the Disciplinary Board. The
7 summary reports shall be sent by the Disciplinary Board to
8 every health care facility licensed by the Illinois Department
9 of Public Health, every professional association and society of
10 persons licensed under this Act functioning on a statewide
11 basis in this State, the American Medical Association, the
12 American Osteopathic Association, the American Chiropractic
13 Association, all insurers providing professional liability
14 insurance to persons licensed under this Act in the State of
15 Illinois, the Federation of State Medical Licensing Boards, and
16 the Illinois Pharmacists Association.

17 (G) Any violation of this Section shall be a Class A
18 misdemeanor.

19 (H) If any such person violates the provisions of this
20 Section an action may be brought in the name of the People of
21 the State of Illinois, through the Attorney General of the
22 State of Illinois, for an order enjoining such violation or for
23 an order enforcing compliance with this Section. Upon filing of
24 a verified petition in such court, the court may issue a
25 temporary restraining order without notice or bond and may
26 preliminarily or permanently enjoin such violation, and if it
27 is established that such person has violated or is violating
28 the injunction, the court may punish the offender for contempt
29 of court. Proceedings under this paragraph shall be in addition
30 to, and not in lieu of, all other remedies and penalties
31 provided for by this Section.

32 (Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97; 90-699,
33 eff. 1-1-99.)

1 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

2 (Section scheduled to be repealed on January 1, 2007)

3 Sec. 24. Report of violations; medical associations. Any
4 physician licensed under this Act, the Illinois State Medical
5 Society, the Illinois Association of Osteopathic Physicians
6 and Surgeons, the Illinois Chiropractic Society, the Illinois
7 Prairie State Chiropractic Association, or any component
8 societies of any of these 4 groups, and any other person, may
9 report to the Disciplinary Board any information the physician,
10 association, society, or person may have that appears to show
11 that a physician is or may be in violation of any of the
12 provisions of Section 22 of this Act.

13 The Department may enter into agreements with the Illinois
14 State Medical Society, the Illinois Association of Osteopathic
15 Physicians and Surgeons, the Illinois Prairie State
16 Chiropractic Association, or the Illinois Chiropractic Society
17 to allow these organizations to assist the Disciplinary Board
18 in the review of alleged violations of this Act. Subject to the
19 approval of the Department, any organization party to such an
20 agreement may subcontract with other individuals or
21 organizations to assist in review.

22 Any physician, association, society, or person
23 participating in good faith in the making of a report, under
24 this Act or participating in or assisting with an investigation
25 or review under this Act ~~Section~~ shall have immunity from any
26 civil, criminal, or other liability that might result by reason
27 of those actions.

28 The medical information in the custody of an entity under
29 contract with the Department participating in an investigation
30 or review shall be privileged and confidential to the same
31 extent as are information and reports under the provisions of
32 Part 21 of Article VIII of the Code of Civil Procedure.

33 Upon request by the Department after a mandatory report has
34 been filed with the Department, an attorney for any party

1 seeking to recover damages for injuries or death by reason of
2 medical, hospital, or other healing art malpractice shall
3 provide patient records to the Department within 30 days of the
4 Department's request for use by the Department in any
5 disciplinary matter under this Act. An attorney who provides
6 patient records to the Department in accordance with this
7 requirement shall not be deemed to have violated any
8 attorney-client privilege. Notwithstanding any other provision
9 of law, consent by a patient shall not be required for the
10 provision of patient records in accordance with this
11 requirement.

12 For the purpose of any civil or criminal proceedings, the
13 good faith of any physician, association, society or person
14 shall be presumed. The Disciplinary Board may request the
15 Illinois State Medical Society, the Illinois Association of
16 Osteopathic Physicians and Surgeons, the Illinois Prairie
17 State Chiropractic Association, or the Illinois Chiropractic
18 Society to assist the Disciplinary Board in preparing for or
19 conducting any medical competency examination as the Board may
20 deem appropriate.

21 (Source: P.A. 88-324.)

22 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

23 (Section scheduled to be repealed on January 1, 2007)

24 Sec. 36. Upon the motion of either the Department or the
25 Disciplinary Board or upon the verified complaint in writing of
26 any person setting forth facts which, if proven, would
27 constitute grounds for suspension or revocation under Section
28 22 of this Act, the Department shall investigate the actions of
29 any person, so accused, who holds or represents that they hold
30 a license. Such person is hereinafter called the accused.

31 The Department shall, before suspending, revoking, placing
32 on probationary status, or taking any other disciplinary action
33 as the Department may deem proper with regard to any license at

1 least 30 days prior to the date set for the hearing, notify the
2 accused in writing of any charges made and the time and place
3 for a hearing of the charges before the Disciplinary Board,
4 direct them to file their written answer thereto to the
5 Disciplinary Board under oath within 20 days after the service
6 on them of such notice and inform them that if they fail to
7 file such answer default will be taken against them and their
8 license may be suspended, revoked, placed on probationary
9 status, or have other disciplinary action, including limiting
10 the scope, nature or extent of their practice, as the
11 Department may deem proper taken with regard thereto.

12 Where a physician has been found, upon complaint and
13 investigation of the Department, and after hearing, to have
14 performed an abortion procedure in a wilful and wanton manner
15 upon a woman who was not pregnant at the time such abortion
16 procedure was performed, the Department shall automatically
17 revoke the license of such physician to practice medicine in
18 Illinois.

19 Such written notice and any notice in such proceedings
20 thereafter may be served by delivery of the same, personally,
21 to the accused person, or by mailing the same by registered or
22 certified mail to the address last theretofore specified by the
23 accused in their last notification to the Department.

24 All information gathered by the Department during its
25 investigation including information subpoenaed under Section
26 23 or 38 of this Act and the investigative file shall be kept
27 for the confidential use of the Director, Disciplinary Board,
28 the Medical Coordinators, persons employed by contract to
29 advise the Medical Coordinator or the Department, the
30 Disciplinary Board's attorneys, the medical investigative
31 staff, and authorized clerical staff, as provided in this Act
32 and shall be afforded the same status as is provided
33 information concerning medical studies in Part 21 of Article
34 VIII of the Code of Civil Procedure, except that the Department

1 may disclose information and documents to a federal, State, or
2 local law enforcement agency pursuant to a subpoena in an
3 ongoing criminal investigation. Furthermore, information and
4 documents disclosed to a federal, State, or local law
5 enforcement agency may be used by that agency only for the
6 investigation and prosecution of a criminal offense.

7 (Source: P.A. 90-699, eff. 1-1-99.)

8 Section 320. The Clerks of Courts Act is amended by adding
9 Section 27.10 as follows:

10 (705 ILCS 105/27.10 new)

11 Sec. 27.10. Director of Insurance. Each clerk of the
12 circuit court shall provide to the Director of Insurance such
13 information as the Director of Insurance requests under Section
14 155.19 of the Illinois Insurance Code.

15 Section 325. The Health Care Arbitration Act is amended by
16 changing Sections 8 and 9 as follows:

17 (710 ILCS 15/8) (from Ch. 10, par. 208)

18 Sec. 8. Conditions. Every health care arbitration
19 agreement shall be subject to the following conditions:

20 (a) The agreement is not a condition to the rendering of
21 health care services by any party and the agreement has been
22 executed by the recipient of health care services at the time
23 of the discharge planning process or at the time of discharge
24 after the last date of treatment ~~inception of or during the~~
25 ~~term of provision of services for a specific cause by either a~~
26 ~~health care provider or a hospital;~~ and

27 (b) The agreement is a separate instrument complete in
28 itself and not a part of any other contract or instrument and
29 an executed copy of the agreement shall be provided to the
30 patient or the patient's legal representative upon signing; and

1 (c) The agreement may not limit, impair, or waive any
2 substantive rights or defenses of any party, including the
3 statute of limitations; and

4 (d) The agreement shall not limit, impair, or waive the
5 procedural rights to be heard, to present material evidence, to
6 cross-examine witnesses, and to be represented by an attorney,
7 or other procedural rights of due process of any party.

8 ~~(e) As a part of the discharge planning process the patient~~
9 ~~or, if appropriate, members of his family must be given a copy~~
10 ~~of the health care arbitration agreement previously executed by~~
11 ~~or for the patient and shall re-affirm it.~~

12 Failure to comply with this provision during the discharge
13 planning process shall void the health care arbitration
14 agreement.

15 (Source: P.A. 80-1012.)

16 (710 ILCS 15/9) (from Ch. 10, par. 209)

17 Sec. 9. Mandatory Provisions.

18 (a) Every health care arbitration agreement shall be
19 clearly captioned "Health Care Arbitration Agreement".

20 (b) Every health care arbitration agreement in relation to
21 health care services rendered during hospitalization shall
22 specify the date of commencement of hospitalization. Every
23 health care arbitration agreement in relation to health care
24 services not rendered during hospitalization shall state the
25 specific cause for which the services are provided.

26 (c) Every health care arbitration agreement may be
27 cancelled by any signatory (1) ~~within 60 days of its execution~~
28 ~~or~~ within 120 ~~60~~ days of the date of the patient's discharge
29 from the hospital or last date of treatment, whichever is
30 later, as to an agreement in relation to health care services
31 rendered during hospitalization, ~~provided, that if executed~~
32 ~~other than at the time of discharge of the patient from the~~
33 ~~hospital, the health care arbitration agreement be reaffirmed~~

1 ~~at the time of the discharge planning process in the same~~
2 ~~manner as provided for in the execution of the original~~
3 ~~agreement;~~ or (2) within 120 ~~60~~ days of the date of its
4 execution, or the last date of treatment by the health care
5 provider, whichever is later, as to an agreement in relation to
6 health care services not rendered during hospitalization.
7 Provided, that no health care arbitration agreement shall be
8 valid after 4 ~~2~~ years from the date of its execution. An
9 employee of a hospital or health care provider who is not a
10 signatory to an agreement may cancel such agreement as to
11 himself until 30 days following his notification that he is a
12 party to a dispute or issue on which arbitration has been
13 demanded pursuant to such agreement. If any person executing a
14 health care arbitration agreement dies before the period of
15 cancellation as outlined above, the personal representative of
16 the decedent shall have the right to cancel the health care
17 arbitration agreement within 120 ~~60~~ days of the date of his
18 appointment as the legal representative of the decedent's
19 estate. ~~Provided, that if no legal representative is appointed~~
20 ~~within 6 months of the death of said decedent the next of kin~~
21 ~~of such decedent shall have the right to cancel the health care~~
22 ~~arbitration agreement within 8 months from the date of death.~~

23 (d) Every health care arbitration agreement shall contain
24 immediately above the signature lines, in upper case type in
25 printed letters of at least 3/16 inch height, a caption and
26 paragraphs as follows:

27 "AGREEMENT TO ARBITRATE HEALTH CARE

28 NEGLIGENCE CLAIMS

29 NOTICE TO PATIENT

30 YOU CANNOT BE REQUIRED TO SIGN THIS AGREEMENT IN ORDER TO
31 RECEIVE TREATMENT. BY SIGNING THIS AGREEMENT, YOUR RIGHT TO
32 TRIAL BY A JURY OR A JUDGE IN A COURT WILL BE BARRED AS TO
33 ANY DISPUTE RELATING TO INJURIES THAT MAY RESULT FROM
34 NEGLIGENCE DURING YOUR TREATMENT OR CARE, AND WILL BE

1 REPLACED BY AN ARBITRATION PROCEDURE.

2 THIS AGREEMENT MAY BE CANCELLED WITHIN 120 ~~60~~ DAYS ~~OF~~
3 ~~SIGNING OR 60 DAYS~~ AFTER YOUR HOSPITAL DISCHARGE OR 120 ~~60~~
4 DAYS AFTER YOUR LAST HEALTH CARE SERVICE ~~MEDICAL TREATMENT~~
5 IN RELATION TO HEALTH CARE SERVICES NOT RENDERED DURING
6 HOSPITALIZATION.

7 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT
8 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF
9 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS
10 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE
11 DECISION OF THE ARBITRATION PANEL."

12 (e) This amendatory Act of the 93rd General Assembly
13 applies to health care arbitration agreements executed on or
14 after its effective date.

15 ~~(e) an executed copy of the AGREEMENT TO ARBITRATE HEALTH~~
16 ~~CARE CLAIMS and any reaffirmation of that agreement as required~~
17 ~~by this Act shall be given to the patient during the time of~~
18 ~~the discharge planning process or at the time of discharge.~~

19 (Source: P.A. 91-156, eff. 1-1-00.)

20 Section 330. The Code of Civil Procedure is amended by
21 changing Sections 2-402, 2-622, and 8-1901 and by adding
22 Sections 2-1704.5, 2-1720, and 2-1721 as follows:

23 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

24 (Text of Section WITHOUT the changes made by P.A. 89-7,
25 which has been held unconstitutional)

26 Sec. 2-402. Respondents in discovery. The plaintiff in any
27 civil action may designate as respondents in discovery in his
28 or her pleading those individuals or other entities, other than
29 the named defendants, believed by the plaintiff to have
30 information essential to the determination of who should
31 properly be named as additional defendants in the action.

32 Persons or entities so named as respondents in discovery

1 shall be required to respond to discovery by the plaintiff in
2 the same manner as are defendants and may, on motion of the
3 plaintiff, be added as defendants if the evidence discloses the
4 existence of probable cause for such action.

5 A person or entity named a respondent in discovery may upon
6 his or her own motion be made a defendant in the action, in
7 which case the provisions of this Section are no longer
8 applicable to that person.

9 A copy of the complaint shall be served on each person or
10 entity named as a respondent in discovery.

11 Each respondent in discovery shall be paid expenses and
12 fees as provided for witnesses.

13 A person or entity named as a respondent in discovery in
14 any civil action may be made a defendant in the same action at
15 any time within 6 months after being named as a respondent in
16 discovery, even though the time during which an action may
17 otherwise be initiated against him or her may have expired
18 during such 6 month period. Extensions of this 6-month period
19 shall be permitted upon a showing of good cause, including but
20 not limited to a failure or refusal on the part of the
21 respondent to comply with timely filed discovery. The 6-month
22 period may not be extended beyond 18 months after the naming of
23 a respondent in discovery, unless the respondent in discovery
24 engages in unreasonable delay in responding to discovery.

25 This amendatory Act of the 93rd General Assembly applies to
26 causes of action pending on or after its effective date.

27 (Source: P.A. 86-483.)

28 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

29 (Text of Section WITHOUT the changes made by P.A. 89-7,
30 which has been held unconstitutional)

31 Sec. 2-622. Healing art malpractice.

32 (a) In any action, whether in tort, contract or otherwise,
33 in which the plaintiff seeks damages for injuries or death by

1 reason of medical, hospital, or other healing art malpractice,
2 the plaintiff's attorney or the plaintiff, if the plaintiff is
3 proceeding pro se, shall file an affidavit, attached to the
4 original and all copies of the complaint, declaring one of the
5 following:

6 1. That the affiant has consulted and reviewed the
7 facts of the case with a health professional who the
8 affiant reasonably believes: (i) is knowledgeable in the
9 relevant issues involved in the particular action; (ii)
10 practices or has practiced within the last 5 6 years or
11 teaches or has taught within the last 5 6 years in the same
12 area of health care or medicine that is at issue in the
13 particular action; ~~and~~ (iii) is licensed in the same
14 profession with the same class of license as the defendant
15 if the defendant is an individual; and (iv) is familiar by
16 experience with the standard of care, methods, procedures,
17 and treatments relevant to the allegations against the
18 defendant; is qualified by experience or demonstrated
19 competence in the subject of the case; that the reviewing
20 health professional has determined in a written report,
21 after a review of the medical record and other relevant
22 material involved in the particular action that there is a
23 reasonable and meritorious cause for the filing of such
24 action; and that the affiant has concluded on the basis of
25 the reviewing health professional's review and
26 consultation that there is a reasonable and meritorious
27 cause for filing of such action. A single written report
28 must be filed to cover each defendant in the action. As to
29 defendants who are individuals, the ~~If the affidavit is~~
30 ~~filed as to a defendant who is a physician licensed to~~
31 ~~treat human ailments without the use of drugs or medicines~~
32 ~~and without operative surgery, a dentist, a podiatrist, a~~
33 ~~psychologist, or a naprapath,~~ The written report must be
34 from a health professional licensed in the same profession,

1 with the same class of license, as the defendant. For
2 written reports ~~affidavits~~ filed as to all other
3 defendants, who are not individuals, the written report
4 must be from a physician licensed to practice medicine in
5 all its branches who is familiar by experience with the
6 standard of care, methods, procedures and treatments
7 relevant to the allegations at issue in the case. In either
8 event, the written report ~~affidavit~~ must identify the
9 profession of the reviewing health professional. A copy of
10 the written report, clearly identifying the plaintiff and
11 the reasons for the reviewing health professional's
12 determination that a reasonable and meritorious cause for
13 the filing of the action exists, must be attached to the
14 affidavit, but information which would identify the
15 reviewing health professional may be deleted from the copy
16 so attached. The report must contain the affirmations set
17 forth in items (i) through (iv) of this paragraph 1. At the
18 first Supreme Court Rule 218 scheduling conference, the
19 plaintiff shall present to the court the original signed
20 health professional's report, along with the consultant's
21 current curriculum vitae, for an in camera inspection. The
22 court shall make a determination that the report and
23 affidavit comply with the requirements of this paragraph 1.
24 If the court finds that the report, the consultant's
25 current curriculum vitae, or the affidavit is deficient,
26 the court may request from the plaintiff all documents it
27 deems necessary to make its determination and shall allow
28 for a reasonable opportunity to provide any requested
29 documents and to amend that report, curriculum vitae, or
30 affidavit. The original report, the consultant's current
31 curriculum vitae, and any documents requested by the court
32 shall remain under seal pending a final in camera
33 inspection, shall not be discoverable, and shall be
34 returned to the plaintiff at the conclusion of the in

1 camera inspection.

2 2. That the affiant was unable to obtain a consultation
3 required by paragraph 1 because a statute of limitations
4 would impair the action and the consultation required could
5 not be obtained before the expiration of the statute of
6 limitations. If an affidavit is executed pursuant to this
7 paragraph, the affidavit ~~certificate~~ and written report
8 required by paragraph 1 shall be filed within 90 days after
9 the filing of the complaint. The defendant shall be excused
10 from answering or otherwise pleading until 30 days after
11 being served with an affidavit and a report ~~a certificate~~
12 required by paragraph 1.

13 3. That a request has been made by the plaintiff or his
14 attorney for examination and copying of records pursuant to
15 Part 20 of Article VIII of this Code and the party required
16 to comply under those Sections has failed to produce such
17 records within 60 days of the receipt of the request. If an
18 affidavit is executed pursuant to this paragraph, the
19 affidavit ~~certificate~~ and written report required by
20 paragraph 1 shall be filed within 90 days following receipt
21 of the requested records. All defendants except those whose
22 failure to comply with Part 20 of Article VIII of this Code
23 is the basis for an affidavit under this paragraph shall be
24 excused from answering or otherwise pleading until 30 days
25 after being served with the affidavit and report
26 ~~certificate~~ required by paragraph 1.

27 (b) Where an affidavit ~~a certificate~~ and written report are
28 required pursuant to this Section a separate affidavit
29 ~~certificate~~ and written report shall be filed as to each
30 defendant who has been named in the complaint and shall be
31 filed as to each defendant named at a later time.

32 (c) Where the plaintiff intends to rely on the doctrine of
33 "res ipsa loquitur", as defined by Section 2-1113 of this Code,
34 the affidavit ~~certificate~~ and written report must state that,

1 in the opinion of the reviewing health professional, negligence
2 has occurred in the course of medical treatment. The affiant
3 shall certify upon filing of the complaint that he is relying
4 on the doctrine of "res ipsa loquitur".

5 (d) When the attorney intends to rely on the doctrine of
6 failure to inform of the consequences of the procedure, the
7 attorney shall certify upon the filing of the complaint that
8 the reviewing health professional has, after reviewing the
9 medical record and other relevant materials involved in the
10 particular action, concluded that a reasonable health
11 professional would have informed the patient of the
12 consequences of the procedure.

13 (e) Allegations and denials in the affidavit, made without
14 reasonable cause and found to be untrue, shall subject the
15 party pleading them or his attorney, or both, to the payment of
16 reasonable expenses, actually incurred by the other party by
17 reason of the untrue pleading, together with reasonable
18 attorneys' fees to be summarily taxed by the court upon motion
19 made within 30 days of the judgment or dismissal. In no event
20 shall the award for attorneys' fees and expenses exceed those
21 actually paid by the moving party, including the insurer, if
22 any. In proceedings under this paragraph (e), the moving party
23 shall have the right to depose and examine any and all
24 reviewing health professionals who prepared reports used in
25 conjunction with an affidavit required by this Section.

26 (f) A reviewing health professional who in good faith
27 prepares a report used in conjunction with an affidavit
28 required by this Section shall have civil immunity from
29 liability which otherwise might result from the preparation of
30 such report.

31 (g) The failure of the plaintiff to file an affidavit and
32 report in compliance with ~~to file a certificate required by~~
33 this Section shall be grounds for dismissal under Section
34 2-619.

1 (h) This Section does not apply to or affect any actions
2 pending at the time of its effective date, but applies to cases
3 filed on or after its effective date.

4 (i) This amendatory Act of 1997 does not apply to or
5 affect any actions pending at the time of its effective date,
6 but applies to cases filed on or after its effective date.

7 (j) This amendatory Act of the 93rd General Assembly
8 applies to causes of action accruing on or after its effective
9 date.

10 (Source: P.A. 86-646; 90-579, eff. 5-1-98.)

11 (735 ILCS 5/2-1704.5 new)

12 Sec. 2-1704.5. Mandatory mediation for healing art
13 malpractice.

14 (a) No later than 60 days prior to trial, the parties shall
15 submit to mandatory mediation in accordance with this Section.
16 Upon the motion of any party or agreement of the parties, all
17 parties may submit to mediation at any point in time prior to
18 or after 60 days before trial.

19 (b) The parties may select a mediator that is mutually
20 acceptable. If the parties cannot agree on a mediator within 7
21 days from the date after a motion for mediation has been filed,
22 or where no motion is filed, within 60 days of trial, the court
23 shall appoint a mediator for the parties.

24 (c) The parties must submit to mediation in good faith
25 until the parties reach a settlement or until the mediator
26 determines that the session is no longer constructive.

27 (d) All parties and, if represented, attorneys for all
28 parties must attend the mandatory mediation session. All
29 parties in attendance must have the authority to settle the
30 case or have telephone access to anyone whose approval is
31 needed to settle.

32 (e) The parties shall share all costs associated with
33 mediation in accordance with this Section.

1 (f) This amendatory Act of the 93rd General Assembly
2 applies to causes of action accruing on or after its effective
3 date.

4 (735 ILCS 5/2-1720 new)

5 Sec. 2-1720. Personal assets; physician. The personal
6 assets of a physician against whom a judgment is entered in a
7 medical malpractice action shall be protected only to the
8 extent set forth in Parts 9 and 10 of Article XII of this Code.

9 (735 ILCS 5/2-1721 new)

10 Sec. 2-1721. Hospitals; apparent, implied, or ostensible
11 agency. A hospital shall not be liable for the conduct of a
12 non-employee member of its medical staff under any claim based
13 upon apparent, implied, or ostensible agency as a matter of
14 law, provided:

15 (1) the specific member of the hospital's medical staff
16 personally informed the patient, or his or her legal
17 representative if present, before rendering treatment,
18 that he or she was not an agent or employee of the
19 hospital; or

20 (2) the patient was unconscious upon arrival at the
21 hospital and the patient's legal representative was not
22 present at that time.

23 The provisions of this Section do not apply if the hospital
24 in question represents or implies in print, radio, television,
25 or Internet (web-based) advertising or otherwise that it
26 employs or has an agency relationship with the physicians on
27 its medical staff.

28 This amendatory Act of the 93rd General Assembly applies to
29 causes of action accruing on or after its effective date.

30 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

31 Sec. 8-1901. Admission of liability - Effect.

1 (a) The providing of, or payment for, medical, surgical,
2 hospital, or rehabilitation services, facilities, or equipment
3 by or on behalf of any person, or the offer to provide, or pay
4 for, any one or more of the foregoing, shall not be construed
5 as an admission of any liability by such person or persons.
6 Testimony, writings, records, reports or information with
7 respect to the foregoing shall not be admissible in evidence as
8 an admission of any liability in any action of any kind in any
9 court or before any commission, administrative agency, or other
10 tribunal in this State, except at the instance of the person or
11 persons so making any such provision, payment or offer.

12 (b) Any expression of grief or apology, including a
13 statement that the health care provider or hospital is "sorry"
14 for the outcome to a patient or the patient's family, is not
15 admissible as evidence. Any additional statements made by the
16 health care provider or hospital to the patient or the
17 patient's family that discloses an explanation of an adverse
18 event or remedial action or other disclosure that provides
19 information concerning cause and effect of treatment is
20 discoverable and admissible.

21 (c) This amendatory Act of the 93rd General Assembly
22 applies to causes of action accruing on or after its effective
23 date.

24 (Source: P.A. 82-280.)

25 Section 340. The Good Samaritan Act is amended by changing
26 Section 30 as follows:

27 (745 ILCS 49/30)

28 Sec. 30. Free medical clinic; exemption from civil
29 liability for services performed without compensation.

30 (a) A person licensed under the Medical Practice Act of
31 1987, a person licensed to practice the treatment of human
32 ailments in any other state or territory of the United States,

1 or a health care professional, including but not limited to an
2 advanced practice nurse, retired physician, physician
3 assistant, nurse, pharmacist, physical therapist, podiatrist,
4 or social worker licensed in this State or any other state or
5 territory of the United States, who, in good faith, provides
6 medical treatment, diagnosis, or advice as a part of the
7 services of an established free medical clinic providing care,
8 including but not limited to home visits, without charge to
9 ~~medically indigent~~ patients which is limited to care that does
10 not require the services of a licensed hospital or ambulatory
11 surgical treatment center and who receives no fee or
12 compensation from that source shall not be liable for civil
13 damages as a result of his or her acts or omissions in
14 providing that medical treatment, except for willful or wanton
15 misconduct.

16 (b) For purposes of this Section, a "free medical clinic"
17 is an organized community based program providing medical care
18 without charge to individuals ~~unable to pay for it,~~ at which
19 the care provided does not include ~~the use of general~~
20 ~~anesthesia or require~~ an overnight stay in a health-care
21 facility.

22 (c) The provisions of subsection (a) of this Section do not
23 apply to a particular case unless the free medical clinic has
24 posted in a conspicuous place on its premises an explanation of
25 the exemption from civil liability provided herein.

26 (d) The immunity from civil damages provided under
27 subsection (a) also applies to physicians, retired physicians,
28 hospitals, and other health care providers that provide further
29 medical treatment, diagnosis, or advice, including but not
30 limited to hospitalization, office visits, and home visits, to
31 a patient upon referral from an established free medical clinic
32 without fee or compensation.

33 (e) Nothing in this Section prohibits a free medical clinic
34 from accepting voluntary contributions for medical services

1 provided to a patient who has acknowledged his or her ability
2 and willingness to pay a portion of the value of the medical
3 services provided.

4 (f) Any voluntary contribution collected for providing
5 care at a free medical clinic shall be used only to pay
6 overhead expenses of operating the clinic. No portion of any
7 moneys collected shall be used to provide a fee or other
8 compensation to any person licensed under Medical Practice Act
9 of 1987.

10 (g) This amendatory Act of the 93rd General Assembly
11 applies to causes of action accruing on or after its effective
12 date.

13 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

14 ARTICLE 9. MISCELLANEOUS PROVISIONS

15 Section 995. Liberal construction; severability.

16 (a) This Act, being necessary for the welfare of the State
17 and its inhabitants, shall be liberally construed to effect its
18 purposes.

19 (b) The provisions of this Act are severable under Section
20 1.31 of the Statute on Statutes.

21 Section 999. Effective date. This Act takes effect upon
22 becoming law."